

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

UNITED STATES OF AMERICA,)

)

V.)

)

No. 21-cr-52 (TJK)

MATTHEW GREENE,)

Defendant.)

)

MOTION TO REVOKE DETENTION ORDER

COMES now the defendant, Matthew Greene, by and through undersigned counsel, and pursuant to 18 U.S.C. § 3145(b), and moves this Honorable Court to revoke the order of detention imposed on April 26, 2021 by the Honorable Miroslav Lovric, United States Magistrate Judge for the Northern District of New York.

BACKGROUND

On April 21, 2021, Matthew Greene was arrested on a warrant alleging charges arising out of the events at the United States Capitol on January 6, 2021. The arrest warrant was the result of an indictment filed in this Court on April 16, 2021. The indictment contains numerous counts against Matthew Greene, as well co-defendants Dominic Pezzola and William Pepe. *See* ECF Dkt. No. 34. A detention hearing was held on April 26, 2021 and the Honorable Miroslav Lovric ordered Mr. Greene to be detained based on a finding of dangerousness to the community. *See* Exhibit 1, Transcript, pg. 79. Magistrate Lovric also held that Matthew Greene did not pose a risk of flight. *Id.* As such, this motion will only address the issue of

dangerousness to the community. The court held that Mr. Greene was subject to a rebuttable presumption that no condition, or combination of conditions, would reasonably assure the safety of the community, pursuant to 18 U.S.C 3142(e)(3). The Court further held that the government had proven by clear and convincing evidence, that in fact, no conditions of release could assure the safety of the community. The Order of Detention Pending Trial specifically references the weight of the evidence against the defendant and that he would be subject to a lengthy period of incarceration if convicted. *See* ECF Dkt. No. 50, pg. 53.

In reaching the conclusion that the defendant is a danger to the community, the Court specifically referenced three firearms that were recovered during the execution of a search warrant at the defendant's home on January 18, 2021. *See* Exhibit 1, Transcript, pg. 82. The Court also relied on the defendant's possession of ammunition allegedly purchased after January 6, 2021 to concluded that the defendant was "consciously arming himself." *Id.* at 84. The Court also specifically mentioned certain "chats and communication post January 6th" as part of the basis for a finding of dangerousness. *Id.*

Thereafter, the defendant waived his right to a removal hearing and the Court ordered that the matter be removed to the District of Columbia. *Id.* at 87. On May 24, 2021, the defendant appeared with counsel before the Hon. Robin Meriweather and entered a plea of not guilty to all counts of this indictment. Upon a joint motion of the parties, the Court tolled the time under the Speedy Trial Act until the next hearing scheduled for August 2, 2021 before Hon. Timothy J. Kelly. *See* ECF Dkt. No. 60.

I. Authority for Review

This Court has the authority to review and reconsider a detention order issued by a magistrate judge. 18 U.S.C. § 3145(b). This review of the magistrate judge's detention order is *de novo*. *United States v. Hunt*, 240 F.Supp. 3d 128, 132 (D.D.C. 2017). Further, the district court must make its own *de novo* determinations without deferring to the legal conclusion of the magistrate court. *United States v. Koenig*, 912 F.2d 1190, 1192 (9th Cir. 1990) and *United States v. Gaviria*, 828 F.2d 667, 670 (11th Cir. 1987).

II. Legal Standard of Review

“In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). The Bail Reform Act mandates that the Court impose the “least restrictive” means of ensuring the appearance of the defendant and safety of the community. 18 U.S.C. § 3142(c)(1)(B). Further, the imposition of detention should be imposed only in “rare circumstances” and any “doubts regarding the propriety of release should be resolved in the defendant’s favor.” *United States v. Gebro*, 948 F.2d 118, 1121 (9th Cir. 1991).

At the detention hearing, the government has the burden of establishing by clear and convincing evidence that no conditions, or combination thereof, will reasonably assure the safety of the community, or, by a preponderance of the evidence, that no condition will reasonably assure the defendant’s return to Court. 18 U.S.C 3142 (e-f). “In common parlance, the relevant inquiry is whether the defendant is a ‘flight risk’ or a ‘danger to the community’”. *United States v. Vasquez-Benitez*, 919 F.3d 546, 550 (D.C. Cir. 2019).

Pursuant to 18 U.S.C. § 3142 (g)(1)-(4), the court’s dangerousness analysis is based on four statutory factors: (1) “the nature and circumstances of the offense charged,” (2) “the weight of the evidence against the person,” (3) “the history and characteristics of the person,” and (4) “the nature and seriousness of danger to any person or the community that would be posed by the person’s release.”

“Thus, a defendant’s detention based on dangerousness accords with due process only insofar as the district court determines that the defendant’s history, characteristics and alleged criminal conduct make clear that he or she poses a concrete, prospective threat to public safety.” *United States v. Munchel*, 991 F.3d 1273 (D.C. Cir. 2021).

III. Argument

The government failed to prove by clear and convincing evidence that Mr. Green poses an articulable threat to an individual or the community. The following factors must be considered:

1. Nature and circumstance of the offenses charged

There is no doubt that the events of January 6, 2021 at the United States Capitol were serious in nature. The allegations in this indictment, if proven beyond a reasonable doubt, could result in a lengthy prison sentence.

However, the defendant submits that of equal importance are the allegations not in the indictment. A close reading of the Overt Acts portion of the indictment provides crucial insight into Mr. Greene’s alleged culpability. There is no allegation that Mr. Greene ever entered the United States Capitol, in stark contrast to his co-defendants, Dominic Pezzola and William Pepe.

See ECF Dkt. No. 34. Significantly, Mr. Pepe was not held in detention after his arrest on this indictment.

There is no allegation that Mr. Greene assaulted a police officer, or any other person for that matter. *Id.* In fact, at one point Mr. Green stopped to render aid to a fellow protestor who had been shot in the face with a police pepper ball projectile. The government has corroborated that this exchange was captured on an officer's body worn camera.

There is no allegation that Mr. Greene destroyed any government property. The government does allege that Mr. Greene "aided and abetted" co-defendant Dominic Pezzola in breaking a window with a police shield. *Id.* However, this theory is obviously questionable given the numerous videos of Mr. Pezzola circulated in the media, by himself, breaking the window in question. Mr. Greene is nowhere in view.

2. Weight of the evidence

During the detention hearing, the government offered pictures showing Mr. Greene present at the Capitol on January 6th, entering into a restricted area outside the building. This evidence is clear. *See* Exhibit 1, Transcript, pg. 35-39. Once again, however, there is seemingly no other proof of any further criminal conduct by Mr. Greene.

3. History and characteristics of the defendant

Matthew Greene is thirty-four years old and has never been arrested or convicted of any crime. He was born in Syracuse, New York and graduated from East Syracuse-Minoa High School. He attended two years of college at Full Sail University in Florida before enlisting in the Army National Guard. In 2010, Mr. Greene was called to active duty, served in Afghanistan and was later honorably discharged. Currently, he is a partner in a multi-million dollar digital

graphic design company, that employees a diverse workforce in several locations across the county. Mr. Greene has been married for one year.

4. Nature and seriousness of the danger to the community

As detailed above, Mr. Greene has led a law-abiding life for thirty-four years and is a highly successful member of his community. He poses no danger to any person, or group of people. However, during the detention hearing, the government raised questions about Mr. Greene's dangerousness.

First, the government executed a search warrant at Mr. Greene's home on January 18, 2021. Among the items recovered were three firearms, eight high-capacity magazines and several electronic receipts for the purchase of ammunition. *Id.* at pg. 22-35. The firearms recovered were a .45 caliber pistol, a .9 mm pistol and an AR-15 rifle. Although Mr. Green does not have a pistol permit in New York state, each of the firearms were purchased legally. The .45 caliber pistol is a commemorative piece purchased through Mr. Greene's Army unit in Afghanistan. Mr. Greene had the appropriate licensing documentation when he initially took possession of the pistol in Illinois, where he was residing at the time. Similarly, the .9 mm handgun was legally purchased by Mr. Greene while he was residing in Rhode Island. Finally, the AR-15 rifle was purchased lawfully in Iowa. The hearing court made reference to the possession of these firearms constituting felony offenses under New York law in making its dangerousness determination. *Id.* at 82. Ironically, possession of the two handguns would not have even made Mr. Greene eligible for detention under New York's bail statute. *NY CPL* § 530.20(1)(b)(i). It is also highly unlikely, given his complete lack of criminal history, that a state court would have detained Mr. Greene for possession of the AR-15 rifle.

The government also pointed to the purchase of ammunition by Mr. Greene after January 6, 2021 as an indicator of his dangerousness. *Id.* at 32. However, the government failed to demonstrate that this action was related, in any way, to the events of January 6th. Mr. Greene was simply buying ammunition to be used at the rifle range. The Covid-19 pandemic had created a shortage of ammunition, like many other consumer items, and the defendant was simply taking advantage of a favorable price. The purchase of ammunition for an AK-47, as referenced by the government at the hearing, was simply a mistake by Mr. Greene. *Id.* at 34. He intended to purchase additional ammunition for the AR-15 rifle and ordered the wrong type. This was not a “straw purchase”, nor was it an indicator of any broader plan of violence. *Id.* at 58.

Significantly, after the execution of the search warrant on January 18, 2021, the government left behind an additional rifle, a shotgun and the ammunition. *Id.* at 27. Yet, over three months later, at the detention hearing, the government took the position that Mr. Greene’s possession of the confiscated weapons was a strong indicator of his dangerousness. If Mr. Greene was such a danger, why was he left in possession of several other firearms? Apparently, the government did not believe Mr. Greene was a danger to the community on January 18th, 2021, despite the fact that the search warrant application revealed the same alleged facts contained in this indictment. This is particularly significant given that Mr. Greene was not arrested for another three months.

Second, the government’s application for detention also relied on messages, attributed to Mr. Greene, sent to associates through a messaging application. While these messages do reference tactics used by the Taliban and being ready to “use those tactics”, it is important to note that there was no specific threat against an individual or group. *Id.* at 43. The messages are

general statements urging readiness, not a proactive call to action. Most significantly, these messages are words written after a historically tumultuous election, at a time when millions of Americans were expressing anger and discontent over the results. Attributing undue weight to these informal statements creates the real danger that Mr. Greene will be detained for his free expression of ideas, before he has been convicted of any offense.

Third, during the detention hearing, the government pointed to Mr. Greene's affiliation with the Proud Boys as another factor contributing to his dangerousness. *Id.* at 16. Prior to January 6, 2021, Mr. Greene's association with the Proud Boys was very limited. He attended approximately three events from November 2020 through January 2021. Mr. Greene had the lowest status in the organization and did not occupy any type of leadership role. Once again, allowing this affiliation to overshadow the more concrete factors outlined above would amount to detaining Mr. Greene for his association with a group, while he stands accused, but not convicted, of any offense. Further, the defendant has concluded that his personal beliefs and ethics do not align with those of the Proud Boys. Mr. Greene he is anxious to publicly disavow his brief membership in this group.

Finally, the continued detention of Mr. Greene, based on his perceived dangerousness, must be considered relative to other cases where defendants have been released. As mentioned earlier, this is especially significant because there is no allegation that Mr. Greene entered the Capitol, caused injury to any person or damaged any property. In *United States v. Chad Jones*, 1:21-mj-076, Mr. Jones was released after being charged with assault on a police officer with use of a deadly weapon or dangerous weapon or infliction of bodily injury. In this case, the government alleges that he used a flagpole to repeatedly strike and break glass of the doorway where Ashley Babbitt was shot and killed. The government did not request Mr. Jones' detention

and Magistrate Judge Harvey released him on special conditions. Similarly, in *Unites States v. Vitali Gossjankowski*, 1:21-cr-123, the defendant has been charged with assaulting a federal officer with a dangerous weapon (taser). The statement of facts in support of the complaint describes that an officer near the defendant suffered a heart attack after being “tased” multiple times in the neck. The government did not object to his release. Finally, in *United States v. Mark Leffingwell*, 1:21-cr-005, the defendant was charged with Assault on a Federal Officer for allegedly pushing past a wall of officers and repeatedly punching an officer with a closed fist. He was also released on conditions.¹

IV. Conclusion

Mr. Greene is prepared to abide by any conditions imposed by the Court to avoid his continued pre-trial detention. In this particular case, given all the factors above, the “least restrictive means” requires that the defendant be released from detention. Mr. Greene respectfully request that the Court revoke the order of detention in this matter and release him on conditions.

¹ See also *United States v. Gina Bisignano*, 21-cr-036 (CJN) (alleged to be a “leader” of the insurrection and allegedly yelled, “We need weapons!” while pushing past the police line); *United States v. Christopher Alberts*, 1:21-cr-026 (CRC) (found carrying a fully loaded handgun and a bullet-proof vest).

Dated: June 15, 2021

Respectfully submitted,

/s/ Michael Kasmarek, Esq.

Bar roll number: 702427

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs. 5:21-MJ-235

MATTHEW GREENE,

Defendant.

Transcript of a detention hearing held on
April 26, 2021, via remote Microsoft Teams, the
HONORABLE MIROSLAV LOVRIC, United States Magistrate
Judge, Presiding.

A P P E A R A N C E S

For The Government: UNITED STATES ATTORNEY'S OFFICE
BY: Stephen Green, ESQ.

For Defendant: OFFICE OF THE FEDERAL PUBLIC
DEFENDER
BY: Gabriella DiBella, ESQ.

*Ruth I. Lynch, RPR, RMR
Official United States Court Reporter
Binghamton, New York 13901*

1 THE CLERK: The case is United States of
2 America versus Matthew Greene, 5:21-MJ-235.

3 Please state your appearances for the
4 record.

5 MR. STEPHEN GREEN: For the United States,
6 Assistant U.S. Attorney Stephen Green, your Honor.
7 Good morning.

8 THE COURT: Good morning, Mr. Green.

9 MS. GABRIELLA DIBELLA: Good morning.
10 Gabriella DiBella on behalf of Mr. Matthew Greene,
11 who's also appearing by video conferencing.

12 Also present virtually are Mr. Greene's
13 wife, Jennifer, and his parents; and Attorney Michael
14 Kasmarek who I believe has been in contact with the
15 defendant about being retained and either has been
16 retained or will be retained shortly and advises that
17 he will be filing a notice of appearance as soon as
18 possible.

19 THE COURT: All right. Good morning, Miss
20 DiBella, and good morning, everyone.

21 Good morning, Mr. Matthew Greene, to you as
22 well.

23 THE DEFENDANT: Good morning, your Honor.

24 THE COURT: All right. And do we have
25 probation's appearance?

1 PROBATION OFFICER: Yes, Judge, it's Janna
2 Kulakowski from the Federal Probation Office.

3 THE COURT: All right. Good morning, Miss
4 Kulakowski.

5 All right. We're here this morning for a
6 detention hearing. We were last in court on the 21st,
7 several days ago, and at that time at the initial
8 appearance on the indictment from the District of
9 Columbia, the defendant requested a detention hearing,
10 and the Court scheduled a hearing for this morning.

11 Before we get to the matter at hand, though,
12 I do have to cover the fact that we are all appearing
13 by way of video and audio conferencing. As you all
14 know, we would normally appear in a courtroom together
15 in one location, but due to the ongoing pandemic that
16 we still find ourselves in and the health emergencies
17 that exist as a result of the pandemic, we are
18 appearing by video and audio conferencing.

19 There are two provisions that permit us to
20 do this, appear in this fashion for this hearing. The
21 first is the CARES Act that was enacted into law, and
22 the second is General Order 59 that was issued by the
23 chief judge of this district. And both of those
24 provisions allow us to conduct this hearing by way of
25 video and audio conferencing from different locations.

1 But I do want to find out if anyone has any objection
2 to proceeding in this fashion.

3 Mr. Steve Green, does the Government have
4 any objections?

5 You're on mute, Mr. Green.

6 MR. GREEN: No objection from the
7 Government, your Honor.

8 THE COURT: All right. Miss DiBella, does
9 the defense have any objections to proceeding in this
10 fashion?

11 MS. DIBELLA: No, your Honor.

12 THE COURT: All right. Mr. Matthew Greene,
13 is it okay with you that we conduct this proceeding by
14 video and audio conferencing as we are speaking right
15 now?

16 THE DEFENDANT: It is, your Honor.

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

18 All right. As I indicated just a moment
19 ago, at the initial appearance on April 21st, the
20 parties were provided with a copy of the indictment
21 that was issued by a grand jury from the District of
22 Columbia. At that proceeding the Government moved for
23 detention pending the removal of the defendant to the
24 District of Columbia. The Court granted the request
25 of Defendant to hold a detection hearing, and that is

1 what we will do today.

2 First I want to find out from both sides if
3 you have received and reviewed the U.S. Probation
4 Office pretrial services report? This can be found at
5 docket number 6.

6 Miss DiBella, have you received that report
7 and have you had a chance to review it with
8 Mr. Matthew Greene?

9 MS. DIBELLA: Yes, I did receive it, and I
10 reviewed it with Mr. Matthew Greene on Saturday. I
11 have two corrections for when we get there.

12 THE COURT: Okay. You can go ahead, because
13 that was going to be my next question, whether there
14 are any objections to any of the factual content.

15 MS. DIBELLA: So the first correction we
16 have is found in the employment history on the first
17 page of paragraphs here. So the PSR notes that the
18 business generates \$254,000 per month. That was
19 actually the Schedule K reported income from last
20 year. So it's a yearly generation, not monthly.

21 THE COURT: Okay. All right, so I'll note
22 that that was meant to be an approximation for the
23 yearly gross income.

24 MS. DIBELLA: Yes.

25 THE COURT: Okay.

1 MS. DIBELLA: The second one is also under
2 the employment history. The PSR has listed that he
3 received a National Defense Combat Action Badge. This
4 is actually two separate commendations. One is the
5 National Defense Metal, and then separate and apart
6 from that is the Combat Action Badge.

7 THE COURT: Okay. All right, I will make
8 sure that that is noted for the record.

9 Any other factual corrections, Miss DiBella?

10 MS. DIBELLA: No, your Honor.

11 THE COURT: All right. Mr. Stephen Green,
12 has the Government received a copy of the pretrial
13 services report and are there any objections to any
14 aspects of it?

15 MR. GREEN: Yes, your Honor, the Government
16 received that report. And at the time -- at this time
17 the Government has no objections. Much of that
18 information is not within the purview of the
19 Government at this point but at this time we have no
20 objections to the report.

21 THE COURT: Okay. All right. Well, with
22 the corrections as stated by Miss DiBella on the
23 record, the Court will adopt the factual recitation
24 within the pretrial service report. And as the
25 parties all know, the probation department also makes

1 a recommendation, and then the parties can refer to
2 the report as you see fit. But for purposes of
3 today's hearing, with the corrections by Miss DiBella
4 I will adopt the factual content otherwise of that
5 report.

6 All right. The Court has received and
7 reviewed the filings by the defendant at docket
8 number 7; a number of character letters that were
9 provided by family and friends on behalf of the
10 defendant. Additionally the Court received this
11 morning 18 exhibits from the Government that
12 apparently the Government intends to offer in evidence
13 and utilize at this hearing.

14 So let me start, Miss DiBella, first have
15 you received copies of those 18 exhibits that the
16 Government apparently wishes to utilize?

17 MS. DIBELLA: Yes, I have.

18 THE COURT: All right. Have you had a
19 chance to review them and generally discuss if needed
20 with Mr. Matthew Greene?

21 MS. DIBELLA: Yes, I have.

22 THE COURT: All right. Mr. Steve Green, I
23 received those exhibits. Am I to presume that the
24 Government intends to offer some or all of those at
25 this proceeding?

1 MR. GREEN: Yes. Yes, your Honor, the
2 Government intends, with the Court's permission, to
3 proceed by proffer and to review and discuss each of
4 those 18 exhibits.

5 THE COURT: All right. Mr. Steve Green, one
6 of my questions is does the Government intend to file
7 those in the docket so that they are a record and also
8 available for -- for the public that chooses to review
9 them?

10 MR. GREEN: We do, your Honor. I didn't
11 submit them prior to the hearing but we intend to do
12 so following the hearing, yes.

13 THE COURT: Okay. All right. I do require
14 that the Government file any exhibits in the docket
15 that are received in evidence here at the hearing, and
16 you can do that sometime shortly after the hearing
17 today, that would be great.

18 I guess let me start first, Miss DiBella,
19 have you and Mr. Steve Green had a chance to discuss
20 the admissibility or objections to the 18 exhibits
21 that the Government is referencing?

22 MS. DIBELLA: I don't believe I've discussed
23 that with Mr. Steve Green. He did advise me on Friday
24 that there would be exhibits of this nature.

25 THE COURT: Okay. Well, we can proceed in

1 one of two ways. Mr. Steve Green, when you commence
2 your presentation you can either address the exhibits
3 individually and then I'll ask the defense if they
4 have any objections, or in a group, however you see
5 fit. But we'll do that and that way Miss DiBella can
6 state on the record her objections if she has any as
7 to any specific exhibit. Okay?

8 MR. GREEN: Yes, your Honor.

9 THE COURT: Okay. All right. All right,
10 Miss DiBella, the Government is going to go first, and
11 then I will give the defense an opportunity, and I'll
12 give both sides an opportunity to respond to each
13 other's presentations and arguments.

14 Mr. Steve Green, the Government goes first.
15 I would like the Government, I know we did it at the
16 initial appearance, but for purposes of the hearing
17 today I think it makes sense, and so that the record
18 is clear, I would like the Government to state again
19 the basis upon which it is moving for detention and
20 then also the eligibility to move for detention based
21 on the nature of what I understand to be count 6 of
22 the indictment. But so that the record is clear as to
23 the basis and also the eligibility.

24 So, Mr. Steve Green, you can proceed.

25 MR. GREEN: Thank you, your Honor.

1 As previously noted at the defendant's
2 initial appearance, this is a presumption case. Under
3 18 U.S.C. 3142(e)3(C), specifically count 6, as the
4 Court noted, of the grand jury's indictment charges
5 violation of 18 U.S.C. Section 1361 and Section 2,
6 which is aiding and abetting. 1361 of Title 18 of the
7 United States Code is listed in 18 U.S.C.
8 Section 2332(b)(g)(5)(B) and has a maximum penalty of
9 ten years imprisonment. Under that section the
10 Government is entitled to request a detention hearing,
11 and also that a statutory presumption arises that no
12 condition or combination of conditions will reasonably
13 assure the appearance of the person as required and
14 the safety of the community.

15 That is all stated in 18 U.S.C. 3142(e).

16 Also, your Honor, the charge in count 618
17 U.S.C. 1361 falls within the scope of 18 U.S.C.
18 3142(g)(1)(A), which is the basis for the Government's
19 request for detention and the basis for the
20 presumption that no conditions will satisfy the
21 requirement -- will assure that the defendant will not
22 pose a danger to the community or appear at any future
23 appearances, your Honor.

24 As the Court knows, in making a pretrial
25 detention determination the Court must consider the

1 following four factors:

2 The nature and circumstances of the offenses
3 charged; the weight of the evidence against the
4 person; the history and characteristics of the person;
5 and the nature and seriousness of the danger to any
6 person or the community that would be posed by the
7 defendant's release.

8 Those are all provided in Title 18 United
9 States Code Section 3142(g) and sections 1 through 4
10 therein.

11 As to the nature and circumstances of the
12 offenses charged, the offenses charged here are
13 extraordinarily serious and subject the defendant to
14 very serious penalties. Examination of the nature and
15 circumstances of those charges and the alleged conduct
16 of this defendant show a profound disregard for the
17 law and the constitution. They also demonstrate a
18 support for violence, defiance of lawful orders of
19 police officers protecting the Capitol, and the
20 defendant acting in concert with others to obstruct
21 one of the core functions of the United States
22 Government, Congress's certification of the electoral
23 college vote.

24 Your Honor, I don't intend to exhaustively
25 detail the allegations of each of the seven charges of

1 the superseding indictment naming this defendant but
2 it is important to note the number of -- the nature of
3 each charge and the defendant's alleged related
4 conduct.

5 In Count 1 Mr. Greene is charged, with his
6 codefendants, with conspiracy; and the alleged
7 objectives of that conspiracy were to, number one,
8 corruptly obstruct, influence, and impede an official
9 proceeding, specifically Congress's certification of
10 the electoral college vote in the recent presidential
11 election, in violation of 18 U.S.C. Section 1512(c)(2)
12 and also Section 2 of Title 18 which together cover
13 obstruction of an official proceeding and aiding and
14 abetting others in doing so.

15 And the second objective of that conspiracy,
16 your Honor, as alleged in the indictment was to
17 obstruct, impede, interfere with law enforcement
18 officers engaged in the lawful performance of official
19 duties incident to and during the commission of a
20 civil disorder, in violation of 18 U.S.C.
21 Section 231(a)(3) and also Section 2 of Title 18, the
22 aiding and abetting statute. So in combination they
23 charge that -- that objective was obstruction of law
24 enforcement during a civil disorder and aiding and
25 abetting others in doing so.

1 The superseding indictment specifically
2 alleges that the, quote, purpose of the conspiracy was
3 to stop, delay, or hinder Congress's certification of
4 the electoral college vote by force if necessary.

5 In a pretrial detention decision by District
6 Judge -- in the District of Columbia Judge Kelly, who
7 was assigned this case for one of Mr. Greene's
8 coconspirators, Judge Kelly recently said that a
9 codefendant and coconspirator of Mr. Greene's came to
10 Washington as a member of a broader conspiracy to
11 effectively steal one of our nation's crown jewels,
12 the peaceful transfer of power. The indictment here
13 alleges that this defendant and his coconspirators,
14 with others known and unknown, carried out the alleged
15 conspiracy by:

16 One. Coordinating travel and lodging
17 arrangements in the days around and including
18 January 6th of this year.

19 Two. Obtaining and using communications
20 equipment including programmable hand-held radios,
21 encrypting message applications, and other
22 communications tools to coordinate the January 6
23 attack.

24 Three. Dressing in clothing that concealed
25 their membership in the Proud Boys organization, as

1 the Proud Boys chairman had previously recommended.

2 Four. Dismantling metal barriers that law
3 enforcement had placed to protect the Capitol.

4 Five. Storming past barriers, Capitol
5 Police, and other law enforcement officers.

6 And, six. Breaking into the Capitol by
7 breaking its windows.

8 The indictment describes some of the details
9 of those actions, and I won't repeat them all here, as
10 they're set forth in the indictment. Count 2 charges
11 this defendant and his coconspirators with a
12 substantive violation of U.S.C. 1512(c)(2) and also
13 Section 2, obstructing an official proceeding and
14 aiding and abetting others in doing so. Specifically
15 it alleges that the defendant and his coconspirators
16 entered the Capitol grounds to, and did, stop, delay,
17 and hinder Congress's certification of the electoral
18 college vote.

19 Count 3 charges this defendant and his
20 coconspirators with a substantive violation of
21 18 U.S.C. Section 231(a)(3) and also Section 2,
22 collectively obstructing law enforcement during a
23 civil disorder and aiding and abetting others in doing
24 so.

25 Specifically it alleges that this defendant

1 and his coconspirators rushed past toppled metal
2 barriers at the Capitol that, until moments earlier,
3 had been guarded by Capitol police officers who were
4 responsible for preventing the crowds' advance on the
5 Capitol.

6 Count 6 charges this defendant and his
7 coconspirators with a substantive violation of
8 18 U.S.C. Section 1361 and also Section 2, collective
9 destruction of Government property and aiding and
10 abetting. And the aiding and abetting statute, as the
11 Court is aware, makes the -- an aider and abettor
12 punishable as a principal.

13 The crime charged in count 6, felony
14 destruction of Government property, is properly
15 characterized as a federal crime of terrorism under
16 18 U.S.C. Section 2332(b)(g)(5) and under Section 5
17 subsections A and B. And 1361 is included in
18 enumeration -- in an enumerated list of statutes
19 contained in 2332(b)(g)5.

20 Those four felony counts, counts 1, 2, 3,
21 and 6, of the superseding indictment provide for a
22 maximum penalty of 5 years, 20 years, 5 years, and 10
23 years respectively, and each one provides for a
24 maximum fine of \$250,000.

25 Counts 7, 8, and 9 of the indictment charge

1 the defendant with a misdemeanor violation of
2 different sections of 18 U.S.C. Section 1752,
3 specifically count 7 charges a violation of
4 1752(a)(1), entering and remaining in a restricted
5 building or grounds.

6 Count 8 charges violation of
7 Section 1752(a)(2), disorderly conduct in a restricted
8 building or grounds.

9 And count 9 charges a violation of
10 1752(a)(4), disorderly conduct in a restricted
11 building or grounds and aiding and abetting.

12 The nature of the defendant's alleged
13 actions in violation of those federal criminal
14 statutes and the severity of the maximum penalties
15 provided by Congress for violation of those statutes
16 make clear the very serious nature and circumstances
17 of these charges and the defendant's alleged conduct,
18 your Honor.

19 The indictment also alleges Mr. Greene was a
20 member of the Proud Boys organization and engaged in
21 prior planning with others before arriving at the
22 Capitol. Items seized during the execution of a
23 search warrant at his home on January 18th provide
24 further evidence of his coordination and others'
25 coordination, specifically, while searching with the

1 execution of a search warrant a Proud Boys pin was
2 found, a Marriot card key was found, and
3 communications from seized electronic devices, among
4 other things, were found.

5 That same alleged conduct also shows he
6 coordinated with his coconspirators and others before
7 and during the riot. Photographs, videos, and records
8 of communications show the use of two-way radios at
9 and around the Capitol on January 6th by the defendant
10 and others to coordinate their activities and
11 movements. Multiple radios were found and recovered
12 at the defendant's home during the authorized search
13 of the defendant's residence, executed after he had
14 returned to Syracuse following the insurrection at the
15 Capitol.

16 As alleged, the defendant aided and abetted
17 the unlawful conduct of others, including acts of
18 violence against property, and members of his
19 conspiracy destroyed property, including the breaking
20 of a window of the Capitol with a riot shield.
21 Multiple photographs from the Capitol on January 6
22 show the Defendant Greene with his coconspirators and
23 Codefendant Pezzola. Two of those photographs show
24 Greene with Pezzola and the referenced riot shield and
25 are being provided to the Court today. They are

1 included within the government exhibits which I'll be
2 reviewing in just a moment, your Honor.

3 Taken together, this information and the
4 nature of the -- and circumstances of the alleged
5 offenses weigh strongly in favor of detection. The
6 nature and circumstances of the charged offenses show
7 a clear disregard for the law and for the
8 constitution. Worse, they show a willingness to aid
9 and abet violence and to contact and concert with
10 others, indeed conspiring with others, to obstruct
11 essential functions of the United States Government.

12 The defendant and his coconspirators'
13 alleged refusal to obey lawful orders of law
14 enforcement on the Capitol grounds at several points
15 during the day on January 6 suggest that he would not
16 comply with conditions of release to keep the public
17 safe.

18 The next factor, weight of the evidence
19 against the defendant, also weighs strongly in favor
20 of detention, your Honor. Much of the proof of
21 Mr. Greene's and his coconspirators' activity on
22 January 6 is captured in photographs and video that
23 show them on the Capitol grounds in various locations,
24 with and near each other on the grounds, wearing
25 communications earpieces and rushing past toppled

1 police barricades and up stairs to the Capitol, among
2 other things.

3 We have provided today, we have provided the
4 Court today with only a few of those photographs but
5 we think enough to make clear the point that
6 Mr. Greene, that the weight of the evidence is strong
7 and is captured in videos and photographs showing his
8 movement and those of his codefendants.

9 Mr. Greene has admitted his Proud Boys
10 membership to law enforcement, and in a chat message
11 found in one of the electronic devices seized from
12 Mr. Greene's residence during the execution -- since
13 the execution of the search warrant, on January 6
14 Mr. Greene celebrated the disruption of the election
15 certification.

16 Replying to a buddy inquiring if he was
17 okay, Mr. Greene said I'm good. We took the Capitol.
18 Quote/unquote.

19 This element also weighs strongly in favor
20 of detention.

21 As to Mr. Greene's history and
22 characteristics, he was clearly a member of a
23 conspiracy with other members of the Proud Boys
24 organization, as alleged in the indictment, and the
25 conspiracy's purpose was to stop, delay, or hinder

1 Congress's certification of the electoral college vote
2 in the recent presidential election. The photographs
3 and videos captured that day demonstrate a willingness
4 to defy law enforcement, charge through toppled
5 protective barriers, participate in an insurrection at
6 the Capitol, defy orders of law enforcement, including
7 joint -- including joining a mob that engaged in acts
8 of violence.

9 Mr. Greene's acts, statements, and purchases
10 that he made shortly after returning to Syracuse
11 following the riot at the Capitol and the illegal
12 weapons and ammunition stockpiled in his home also
13 demonstrate -- indicate that his character is suspect
14 and that his actions -- I'm sorry, your Honor, his
15 actions strongly favor detention. I'm going to review
16 the -- those conversations and these illegal weapons
17 and the ammunition that he ordered after returning to
18 Syracuse in just a moment.

19 Information obtained since Mr. Greene's
20 arrest indicates that he's lived all over the United
21 States and overseas, at least 7 states in the past 15
22 years; that he resides in a house owned solely by his
23 wife; that he has no children; that he has within the
24 last several years had significant foreign travel for
25 pleasure; that he has significant savings and

1 financial resources; that he has a valid U.S.
2 passport; and he has recently, according to a media
3 report that was obtained and reported in the local
4 press over the weekend, that he has been fired from
5 his position of employment in the last several days.

6 Clearly those items, that information,
7 suggests that there was a significant risk that he
8 would not appear as required by the Court and also go
9 to show that there is an element of danger here as
10 well, your Honor.

11 Finally, the nature and seriousness of the
12 danger to any person or the community that would be
13 posed by Mr. Greene's release also support pretrial
14 detention. The same considerations provided
15 previously about the nature and circumstances of the
16 charged offenses are also instructive here.

17 As mentioned previously, your Honor, on
18 January 18th, 2021, law enforcement executed a federal
19 search warrant at the defendant's residence here in
20 Syracuse, and that -- that search warrant was
21 authorized by this Court. Greene then had at his home
22 an unregistered and unlawful AR-15 assault rifle, two
23 unregistered semiautomatic handguns for which he
24 appears to have no pistol permit. The second handgun
25 was found in a secret compartment of a drop-down shelf

1 capable of being opened only with a card key device.

2 Additionally several electronic devices were
3 seized. And although forensic examination of those
4 devices remains ongoing, a number of communications
5 found on those devices so far demonstrate Mr. Greene's
6 current dangerousness and future dangerousness.

7 And at this point, your Honor, if I may I'll
8 go through the exhibits offered by the Government.

9 Exhibit 1 is -- that exhibit is a photograph
10 taken by law enforcement officers during the execution
11 of the search warrant at the defendant's home. It
12 shows an AR-15 assault rifle that was found in the
13 home that day.

14 THE COURT: Steve Green, if I could just
15 interrupt you for a moment.

16 Miss DiBella, I thought it might make sense
17 at this juncture to ask if the defense has objections
18 to any one or more of these exhibits for the purposes
19 of this hearing.

20 MS. DIBELLA: I would like to address these
21 one by one, if possible. Because I'd like to hear any
22 foundation that Mr. Green could provide in regards to
23 them.

24 THE COURT: Okay. So then we'll do one by
25 one, Mr. Steve Green. And then I'll ask the defense

1 if they have an objection. I just want to make sure
2 that it's clear on the record if there are objections
3 what they are and therefore assist the Court in terms
4 of my relying on any exhibits or not and the record is
5 clear for any other future court.

6 All right, Mr. Steve Green, you can
7 continue.

8 MR. GREEN: Yes, your Honor. As mentioned,
9 this Exhibit 1 is a photograph taken by law
10 enforcement officers at Mr. Greene's residence in
11 Syracuse taken on the day of the execution of the
12 warrant and during the execution of the warrant. The
13 item shown in Exhibit 1 is an AR-15 assault rifle. It
14 has a pistol grip, a collapsible butt stock, a long
15 range optical capability, and a tactical lighting
16 device. It is also configured to work with detachable
17 magazines, and there is no inserted magazine in this
18 photograph. I'm advised that this assault rifle was
19 not registered as required in New York State and that
20 its use of detachable magazines makes it unlawful in
21 New York under New York State law.

22 Again, this photograph was taken during the
23 execution of the warrant while the officers were still
24 present in Defendant Greene's home and represents this
25 item as it was found and in the location where it was

1 found in the home.

2 THE COURT: All right. Miss DiBella, do you
3 have any objection to this exhibit being introduced or
4 received in evidence?

5 MS. DIBELLA: No, your Honor.

6 THE COURT: Okay. The Court will receive
7 Exhibit 1 in evidence, and parties can make use of it
8 as they see fit.

9 MR. GREEN: Thank you, your Honor.

10 Exhibit 2, your Honor, is an exhibit also
11 found in Mr. Greene's home. It is a photograph taken
12 by law enforcement officers during the execution of
13 the search warrant while the officers were still
14 present in the home. It is a photograph taken near
15 where the object was found. The photograph here shows
16 a camouflage tactical vest stuffed with eight tactical
17 detachable high capacity magazines for an AR-15. Each
18 of the high capacity magazines was fully loaded with
19 ammunition for an AR-15 assault rifle. Specifically
20 each of the magazines was loaded with 30 rounds of
21 assault rifle ammunition. I am advised that these
22 detachable 30-round capacity magazines are also
23 illegal in New York State under New York State law;
24 and again the photograph was taken at Mr. Greene's
25 home and during the -- during the execution of the

1 search warrant previously authorized by this Court.

2 THE COURT: Miss DiBella, any objection to
3 this exhibit?

4 MS. DIBELLA: I would just note that based
5 on this photograph I think a person looking at the
6 photograph is unable to confirm that the magazines
7 were loaded. So as it relates to being a tactical
8 vest with magazines in the pockets I would have no
9 objection.

10 THE COURT: Okay. Government Exhibit 2 is
11 received in evidence.

12 MR. GREEN: Thank you, your Honor.

13 Exhibit 3 is another photograph of the
14 magazines separated from the tactical vest; again it
15 was taken during the execution of the search warrant
16 at Mr. Greene's residence by law enforcement officers
17 in the process of executing that search warrant. It
18 shows the 8 detachable magazines for the AR-15. Each
19 of them -- as mentioned previously they were -- the
20 officers found them to be fully loaded, each with 30
21 rounds, for a total of 250 rounds of AR-15 assault
22 rifle ammunition in these magazines.

23 THE COURT: Miss DiBella, any objection to
24 Exhibit Number 3?

25 MS. DIBELLA: No, your Honor.

1 THE COURT: All right. Exhibit 3 is
2 received in evidence.

3 MR. GREEN: Your Honor, Exhibit 4 is a
4 close-up photo of those same magazines, essentially
5 the same magazines shown in the prior exhibit.
6 However, in the -- the detachable magazine shown in
7 the upper right portion of the photograph, you can see
8 that there is a bullet loaded inside the magazine, and
9 the officers executing the warrant have represented to
10 me that there were 30 rounds in each of the detachable
11 magazines shown in this photograph. And again this
12 photograph was taken by those officers at the moment
13 and during the time they were executing the search
14 warrant previously authorized by this Court.

15 THE COURT: Miss DiBella, any objection to
16 Exhibit 4?

17 MS. DIBELLA: No, your Honor.

18 THE COURT: All right, Exhibit 4 is received
19 in evidence.

20 MR. GREEN: Your Honor, Exhibit 5 shows, is
21 a photograph showing a camouflage backpack that law
22 enforcement officers believe matches the backpack
23 Mr. Greene was wearing in photos and videos of him
24 taken at the Capitol on January 6th. This item was
25 found in Mr. Greene's residence by law enforcement

1 officers during the execution of the previously
2 mentioned search warrant on January 18th. The
3 officers indicate as shown in the photograph that
4 inside the backpack is a military grade Kevlar
5 ballistic helmet. And again this was a photograph
6 taken near where the item was found in the residence
7 of Mr. Greene during the execution of the search
8 warrant by law enforcement officers on January 18th.

9 THE COURT: Miss DiBella, any objection to
10 Government Exhibit 5?

11 MS. DIBELLA: No, your Honor.

12 THE COURT: All right. Exhibit 5 is
13 received in evidence.

14 MR. GREEN: Your Honor, Exhibit 6 was also
15 found by law enforcement officers in the residence of
16 the defendant during the execution of that same search
17 warrant on January 18th. This photograph shows a
18 Remington 12 gauge shotgun where it was found within
19 the defendant's residence. This shotgun was not taken
20 by law enforcement as it was not unlawful at the time.
21 And it was last known by law enforcement to remain in
22 the defendant's home following the execution of the
23 search warrant. Again it was a photo taken at the
24 time the search warrant was being executed by those
25 law enforcement officers in Mr. Greene's home, and

1 that search warrant was previously authorized by this
2 Court.

3 THE COURT: Miss DiBella, any objection to
4 Exhibit 6?

5 MS. DIBELLA: No, your Honor.

6 THE COURT: All right. Exhibit 6 is
7 received in evidence.

8 MR. GREEN: Your Honor, Government Exhibit 7
9 is a photograph showing a bolt action rifle named a
10 Mosin, M-O-S-I-N, Nagant, N-A-G-A-N-T, again a bolt
11 action rifle. This was also found in the home during
12 the execution of the search warrant on January 18th.
13 It was not taken by law enforcement as it was not
14 unlawful at the time and was last known by law
15 enforcement to remain in Defendant's home.

16 THE COURT: Miss DiBella, any objection to
17 Exhibit 7?

18 MS. DIBELLA: No, your Honor.

19 THE COURT: All right. Exhibit 7 is
20 received in evidence.

21 MR. GREEN: Your Honor, Exhibit 8 is also a
22 photograph taken by law enforcement officers during
23 the execution of the search warrant previously
24 referenced. This photograph shows a Colt
25 semiautomatic handgun also found in Defendant's home.

1 The semiautomatic handgun was not registered, and law
2 enforcement checks for Mr. Greene showed that he has
3 no valid and current New York State pistol permit for
4 this or any other handgun.

5 THE COURT: Miss DiBella, any objection to
6 Government Exhibit 8?

7 MS. DIBELLA: No, your Honor.

8 THE COURT: All right. Court receives
9 Exhibit 8 in evidence.

10 MR. GREEN: Your Honor, Exhibit 9.
11 Exhibit 9 is a photograph again taken by law
12 enforcement officers during the execution of the
13 previously referenced search warrant in the
14 defendant's home on January 18th. There are two --
15 actually two parts or components of this photograph.
16 First it shows a handgun. That handgun is identified
17 as a Smith and Wesson 9 millimeter semiautomatic. And
18 secondly it is -- the photograph shows where and how
19 it was found. It was in a secret compartment within a
20 drop-down shelf, also again in the defendant's home.
21 The shelf was required to be activated by inserting a
22 required card key. Otherwise the shelf would -- would
23 fold up and it would appear simply as a wooden shelf,
24 so there appears to be some sort of a secret
25 compartment involved here. But again it's a Smith and

1 Wesson 9 millimeter semiautomatic handgun. And again
2 there was no pistol permit found in the -- for
3 Mr. Greene, and this handgun was not registered to
4 Mr. Greene.

5 THE COURT: Miss DiBella, any objection to
6 Exhibit Number 9?

7 MS. DIBELLA: No, your Honor.

8 THE COURT: All right, Court receives
9 Exhibit 9 into evidence.

10 MR. GREEN: Your Honor, as previously
11 mentioned, in addition to the weapons and ammunition
12 found during the execution of the search warrant,
13 there were several electronic devices that were within
14 the scope of the warrant that were seized by law
15 enforcement officers during the execution of the
16 warrant. Forensic examination of some of those
17 devices remains ongoing but forensic examination
18 completed to date shows several things that are
19 relevant to today's hearing to demonstrate the
20 dangerousness posed by Mr. Greene. This next series
21 of exhibits shows that he ordered high capacity
22 magazines for an assault rifle shortly before he
23 headed down to the District of Columbia and that he
24 ordered massive quantities of ammunition for assault
25 rifles, a gas mask, and a respirator days after he

1 returned to his home following the events on January 6
2 at the Capitol.

3 Specifically Exhibit 10, your Honor, this is
4 a screen capture from his personal cell phone. This
5 order confirms that on December 20th, 2020, Mr. Greene
6 placed an online order for six 30-round magazines for
7 an AR-15 assault rifle. The confirmation shows that
8 Mr. Greene arranged to have the order shipped to him
9 at his home.

10 THE COURT: Miss DiBella, any objection to
11 Exhibit Number 10?

12 MS. DIBELLA: No, your Honor.

13 THE COURT: All right.

14 MR. GREEN: Your Honor, I would just note
15 for the record that the original screen capture of
16 this exhibit which covers two pages, on page 1 the
17 original shows a personal email address used by
18 Mr. Greene, and on -- and also at the bottom of that
19 page it shows his home address. And on the second
20 page his home address is again shown. For the
21 purposes of today's hearing and submission of this
22 document, the Government has redacted Mr. Greene's
23 personal email address and the personal address of his
24 home.

25 THE COURT: Very good, Mr. Steve Green, that

1 sounds fine. And Number 10 is admitted into evidence
2 with those redactions.

3 MR. GREEN: Your Honor, Exhibit 11, this is
4 another online order confirmation. And what's
5 depicted is a screen capture from Mr. Greene's
6 personal cell phone. This order confirmation shows
7 that on January 9th, 2021, just days after Mr. Greene
8 returned from the Capitol and his activities there on
9 January 6th, he ordered 1,000 rounds of AR-15 assault
10 rifle ammunition at a price of \$849.50. Again
11 Mr. Greene directed that this substantial quantity of
12 AR-15 ammunition be shipped to him at his home. And,
13 your Honor, as mentioned previously, on this -- on
14 this document as well there are Mr. Greene's personal
15 email address appears as well as his private residence
16 address, and the Government has redacted, for purposes
17 of submission of this document for the detention
18 hearing today, that personal information for
19 Mr. Greene.

20 THE COURT: All right. Miss DiBella, any
21 objection to Exhibit 11?

22 MS. DIBELLA: No, your Honor.

23 THE COURT: All right.

24 MR. GREEN: Your Honor, I would also -- I'm
25 sorry.

1 THE COURT: Go ahead, Mr. Green.

2 MR. GREEN: I would also ask the Court, this
3 is a multi-page exhibit. I would ask the Court to
4 refer to the last two pages that are part of this
5 Exhibit 11. Those exhibit -- those -- those pages
6 show that at least a portion of this massive order of
7 assault rifle ammunition ordered by Mr. Greene after
8 he returned to his home following the January 6th
9 event had arrived, and those last two pages are
10 photographs taken by the agents during the execution
11 of the search warrant showing the exterior of the box
12 in which they arrived at his home and then the
13 interior showing boxes of that ammunition that he had
14 ordered.

15 THE COURT: All right. 11 will be received
16 with the redactions that the Government has stated
17 will be redacted before this exhibit is placed into
18 public record.

19 MR. GREEN: Your Honor, Exhibit 12 again is
20 a screen capture taken from Mr. Greene's personal cell
21 phone. This order shows confirmation and a receipt
22 for another order; this -- this order shows that on
23 January 9th, again just days after returning from the
24 insurrection at the U.S. Capitol in which he
25 participated, Mr. Greene ordered 1,560 rounds of

1 assault rifle ammunition designed for an AK-47 or
2 SKS style rifle, neither of which were found in
3 Mr. Greene's residence during the search. The price
4 for this order is shown as \$624.49. And again this
5 screen capture was taken from -- by law enforcement
6 officers from Mr. Greene's personal cell phone.

7 THE COURT: Miss DiBella, Government
8 Exhibit 12, any objections?

9 MS. DIBELLA: No, your Honor.

10 MR. GREEN: Your Honor, again I would note
11 that this -- this document in its original form on the
12 screen capture listed Mr. Greene's personal cell
13 phone -- or, I'm sorry, personal email address, and
14 the Government has redacted that from this exhibit for
15 submission and use here for the purposes of today.

16 THE COURT: All right. Government
17 Exhibit 12 is admitted with those redactions.

18 MR. GREEN: And, your Honor, next,
19 Government Exhibit 13, this again is a screen capture
20 from Mr. Greene's personal cell phone, and this --
21 this exhibit shows an order confirmation dated
22 January 11th, again just days after he returned from
23 the insurrection at the U.S. Capitol on January 6th,
24 and it shows him ordering a gas mask, a respirator,
25 and a replacement filter kit. The price was \$210.94,

1 and once again he ordered that this equipment be
2 shipped to him at his home. The screen capture was
3 taken by -- by law enforcement officers executing the
4 search warrant from Mr. Greene's personal cell phone.

5 THE COURT: Miss DiBella, any objections to
6 Exhibit 13?

7 MS. DIBELLA: No, your Honor.

8 THE COURT: All right.

9 MS. DIBELLA: Once again -- I'm sorry. Once
10 again, your Honor, the same redactions of personal
11 information pertaining to Mr. Greene were redacted by
12 the Government for purposes of submission of this
13 document today.

14 THE COURT: All right. Exhibit 13 with
15 those redactions is received in evidence.

16 MR. GREEN: And, your Honor, the next is a
17 series of photographs showing Mr. Greene, some with at
18 least one of his coconspirators. These were obtained
19 by law enforcement at -- at the -- at the events, or
20 taken during the events at the Capitol, and they have
21 been obtained by law enforcement. Each one of them
22 shows Mr. Greene -- I'll go through each one
23 describing what specifically is shown.

24 Exhibit 14 is a photograph showing
25 Mr. Greene and his codefendant, Mr. Pezzola. They are

1 both pictured in the red circle that appears in the
2 exhibit. And Mr. -- Mr. Pezzola, whose long gray hair
3 is to the back of the -- of the camera in this, in
4 this picture, you can see if you look carefully that
5 he is holding a riot shield in that photograph. The
6 person with the goggles and the blue hoody with the
7 straps for a camouflage backpack facing the camera
8 within the red circle is believed by law enforcement
9 to be Mr. Greene.

10 THE COURT: All right, Miss DiBella, any
11 objection to Exhibit 14?

12 MS. DIBELLA: I just want to clarify. Did
13 law enforcement take this picture or did law
14 enforcement receive this picture?

15 MR. GREEN: Law enforcement has received
16 this picture. I'm not sure who took the picture.

17 MS. DIBELLA: Is there any indication what
18 day law enforcement received this picture?

19 MR. GREEN: That I don't know. There has
20 been a steady stream of video and photos received by
21 law enforcement throughout the process since
22 January 6th; I don't have a precise date that this
23 photograph is received. But it does depict both
24 Mr. Greene and Mr. Pezzola on January 6th.

25 MS. DIBELLA: I have no objection, your

1 Honor.

2 THE COURT: Okay. Exhibit 14 is received in
3 evidence.

4 MR. GREEN: Your Honor, Government
5 Exhibit 15 is a closer photograph also from the events
6 of January 6th at the Capitol grounds. It is a closer
7 photograph of Mr. Pezzola with the sunglasses and the
8 riot shield facing the camera, and next to him to his
9 right with the goggles and the camouflage backpack
10 straps and the blue jacket or hoody is law enforcement
11 believes to be Mr. Greene.

12 THE COURT: All right, Miss DiBella,
13 Exhibit 15, any objections?

14 MS. DIBELLA: Is this another photograph
15 that law enforcement received from someone else?

16 MR. GREEN: Yes. I -- again I don't know
17 who took the photograph; it has definitely been
18 received by law enforcement and shows both Mr. Greene
19 and Codefendant Mr. Pezzola.

20 MS. DIBELLA: I have no objection.

21 THE COURT: All right. Exhibit 15 is
22 received in evidence.

23 MR. GREEN: Your Honor, Government
24 Exhibit 16 is another photograph from the Capitol, the
25 events at the Capitol, on January 6th of this year.

1 This is a photograph showing Mr. Greene with his
2 backpack and blue hoody or jacket running forward up
3 the pedestrian walkway shortly after the first breach
4 of the Capitol police security barricades. Again this
5 was a photograph received by law enforcement and
6 depicts Mr. Greene wearing the camouflage backpack
7 that was discovered -- law enforcement believes was
8 discovered during the execution of the search warrant
9 at his residence.

10 THE COURT: Miss DiBella, any objection to
11 Exhibit 16?

12 MS. DIBELLA: No, your Honor.

13 THE COURT: Okay. 16 is received into
14 evidence.

15 MR. GREEN: Your Honor, Government
16 Exhibit 17 is a photograph of Mr. Greene and his
17 codefendant, Mr. Pezzola, entering the lower west
18 terrace of the Capitol grounds on January 6 of this
19 year. The photograph was taken soon after the breach
20 of the Capitol Police barricades that led to that
21 area. Again it's a photograph received by law
22 enforcement and depicting both Mr. Greene and
23 Mr. Pezzola together at the Capitol on January 6,
24 2021.

25 THE COURT: Miss DiBella, any objection to

1 Exhibit 17?

2 MS. DIBELLA: No, your Honor.

3 THE COURT: Okay. Exhibit 17 is received in
4 evidence.

5 MR. GREEN: And the last Government exhibit,
6 your Honor, Exhibit 18 is a photograph showing
7 Mr. Greene and his codefendant, Mr. Pezzola, together
8 with Pezzola carrying the riot shield heading up the
9 stairs to the Capitol shortly after a police line
10 protecting those stairs had been breached. Again this
11 is a photograph obtained by law enforcement since the
12 events that day and shows both Mr. Greene and his
13 codefendant, Mr. Pezzola, together, charging up the
14 stairs at the Capitol on January 6th, 2021.

15 THE COURT: Okay. Miss DiBella, any
16 objection to Exhibit 18?

17 MS. DIBELLA: No, your Honor.

18 THE COURT: Okay, Exhibit 18 is also
19 received into evidence.

20 MR. GREEN: Your Honor, the Government
21 respectfully submits that these photographs and the
22 evidence found during the search warrant executed at
23 Mr. Greene's residence after the events of January 6th
24 show that after he returned home following the
25 violence, the deaths, and the storming of the

1 U.S. Capitol and the destruction and theft of
2 Government property at the Capitol on January 6th, and
3 the disruption of a certification of the United States
4 Presidential Election, Mr. Greene had an opportunity
5 to reflect on what he and others had done on
6 January 6th in the days leading up to and following
7 the violent insurrection. However, rather than
8 renounce the violence, the death, and the disruption
9 of a peaceful transition of power, Mr. Greene equipped
10 himself and possibly others for more and heightened
11 violence. He ordered massive quantities of assault
12 rifle ammunition, over 2500 rounds; maintained loaded
13 high capacity detachable magazines for his AR-15 and
14 other assault rifles; and prepared himself for further
15 insurrections and mayhem by ordering a gas mask, a
16 respirator, and related tactical gear.

17 Mr. Greene's massive orders of assault rifle
18 ammunition and tactical gear following his return from
19 the January 6th assault on the U.S. Capitol make
20 abundantly clear his state of mind going forward and
21 the nature and seriousness of the danger he presents
22 to the community.

23 Finally, your Honor, I'd like to review
24 some -- some chat messages and communications that
25 were found on Mr. Greene's phone. I have not yet been

1 able to extract just these portions, and the full
2 portions of these chats identify other individuals and
3 we didn't want to submit that today in that form, so
4 I'm simply going to proffer into the record specific
5 quotes and statements made by Mr. Greene that were
6 captured in those chats that were found on his phone
7 during the forensic examination of that phone
8 following the execution of the search warrant
9 previously authorized by this Court.

10 In these chat messages and communications
11 Mr. Greene sent to fellow Proud Boys members and
12 others following the insurrection at the Capitol, he
13 further demonstrated that he presents a serious danger
14 to the community, to others who may wish to assist law
15 enforcement in bringing to justice those who broke the
16 law on January 6th at the Capitol, and that by
17 ordering a small arsenal to be delivered to his home
18 here in Syracuse he was preparing for further
19 violence.

20 According to the evidence recovered from his
21 phone, Mr. Greene does not treat the events of
22 January 6th as an aberration or an isolated event but
23 merely one in a series of events. For example, on
24 January 17th, 2021, in an encrypted group chat for the
25 Central New York Proud Boys, in response to another

1 member talking about QAnon Mr. Greene said, quote, you
2 all need to drop this Q shit. It's a fucking CYOP
3 convincing people to do nothing and that someone else
4 is going to save them. Trump threw us all under the
5 bus, and he's got three days to prove me wrong that he
6 has the balls to do what's right. This isn't black
7 tilled shit but the sooner everyone wakes up that no
8 one is going to fix this mess besides us, the sooner
9 we can collectively take back our country. End quote.

10 In a different message on January 17th,
11 2021, during the same chat, Mr. Greene stated, quote,
12 everyone needs to wake up and realize that no one is
13 coming to save us. There is no white hats working on
14 the inside. Ardent patriots are getting locked up and
15 called terrorists while BLM gets to destroy cities
16 with no repercussions. They are coming for us
17 individually until there is no resistance left. We
18 stand together now or we end up in the Gulag
19 separately. End quote.

20 On January 10th, 2021, Defendant Greene
21 discussed with an associate whether the president had
22 signed the Insurrection Act. Greene said that if the
23 president had, he would tell them somehow.

24 The associate said that he was battening
25 down the hatches and loading magazines. Greene

1 replied, quote, same, brother, same -- same, brother,
2 shit has gotten real up here. They are coming for us.
3 We had a fucking rat in our ranks. Be careful who you
4 trust. Everyone wants to be a patriot until it's time
5 to do patriot shit, end quote.

6 Mr. Greene continued to advise this
7 associate, quote, study unconventional warfare tactics
8 and guerrilla operations. Remember how we hunted TBN.

9 And I'll just insert here, your Honor, the
10 law enforcement officers believe TBN refers to the
11 Taliban and Mr. Greene's service in the military in
12 Afghanistan.

13 Remember how we hunted TBN. They are
14 hunting us the same way. Remember how the TBN were
15 able to counter us and defeat us. Use those tactics.
16 Trust your gut. If it tells you this person is weak
17 and will fold when pressured, get them out of your
18 life instantly. Be prepared to do uncomfortable
19 things.

20 Next, after posting a number of images that
21 appeared to be referencing Ashley Babbitt, the woman
22 who was shot by law enforcement officers inside the
23 Capitol during the riot, Greene said, quote, don't
24 forget what they did, end quote.

25 Mr. Greene's statements make clear that he

1 presents a serious danger to the community. He speaks
2 in terms of warfare tactics and guerrilla operations,
3 military tactics, and hunting. Moreover, his
4 statement, quote, we had a fucking rat in our ranks,
5 end quote, suggests that he is prepared to intimidate
6 and perhaps to obstruct any member of the Proud Boys
7 or any other person wishing to assist law enforcement
8 in bringing to justice those who committed crimes at
9 and in connection with the riot at the U.S. Capitol on
10 January 6th, 2021.

11 So in conclusion, your Honor, the Government
12 respectfully submits that Mr. Greene cannot overcome
13 the statutory presumption applicable here; that no
14 condition or combination of conditions will reasonably
15 assure his appearance as required and the safety of
16 the community.

17 THE COURT: All right, Mr. Steve Green.

18 Miss DiBella, you get to go next.

19 MS. DIBELLA: Your Honor, I'd like to start
20 with some historical background and context that I
21 believe relate to the nature and the circumstances of
22 the defense. Because this is a very unique offense
23 that's been charged. So I'll start by explaining the
24 background of how things led up to this.

25 So Donald Trump was voted out of office as a

1 result of the 2020 presidential election, but for
2 several months leading up to this loss he repeatedly
3 told his supporters falsehoods about voting in this
4 election including that the election had been rigged.
5 He ramped up his rhetoric after he lost this election.
6 He filed court challenges in battleground states. The
7 challenges were all met with defeat. After losing in
8 all of these courts, Trump's tactics shifted. They
9 shifted towards ordering senators to fight for him.
10 Beginning in December he also issued a battle cry to
11 his supporters in general. And he encouraged them to
12 gather on his behalf on January 6th of 2021.
13 Specifically on December 19th of 2020 Trump tweeted
14 that it was statistically impossible to have lost the
15 2020 election, and, big protest in DC on January 6th,
16 be there, will be wild.

17 So Donald Trump, who was President of the
18 United States at that time, was already making plans
19 for January 6th. At this point in time he was fanning
20 the flames of his base who felt marginalized by the
21 results of the election. And he was inviting them to
22 come to the Capitol on January 6th, and he went as far
23 to promise them that it would be wild.

24 On December 27th of 2020 Trump tweeted see
25 you in Washington, DC on January 6th, don't miss it,

1 information to follow.

2 The next day Former Trump White House
3 Official Olivia Troye said that she was very concerned
4 that there would be violence on the 6th because the
5 president himself encourages it. And she elaborated
6 by saying this is what President Trump does; he
7 tweets, he incites it, he gets his followers and
8 supporters to behave in a certain manner, and that the
9 supporters think they're being patriotic because
10 they're supporting Donald Trump.

11 January 1st of 2021 Donald Trump tweets the
12 big, all caps, protest rally in Washington, DC will
13 take place at 11 a.m. on January 6th, locational
14 details to follow. Stop the steal. Exclamation
15 point.

16 A few days later, on January 3rd of 2021,
17 Ted Cruz joins and says we will not go quietly into
18 the night. We will defend liberty and we are going to
19 win.

20 The following day, January 4th, 2021, Donald
21 Trump appeared at a pre-election rally in Georgia and
22 he told his followers at this rally they're not taking
23 this White House. We are going to fight like hell.

24 A few days after that was January 6th. That
25 day Trump tweeted the states want to redo their votes.

1 They found out they voted on a fraud, all caps.
2 Legislators never approved. Let them do it. Be
3 strong, exclamation point.

4 So he has been spewing falsehoods to rile up
5 the base and his supporters, and he wants to appeal to
6 their patriotic senses. And he wants to appeal to the
7 fact that they feel marginalized by the results of the
8 election.

9 So January 6th comes, and people gather.
10 While Trump perpetuates falsehoods.

11 Later on that day newly elected
12 representative Lauren Boebert from Colorado tweets
13 today is 1776. So she is picking up what Donald Trump
14 is throwing down. And she's attempting to appeal to
15 the base's patriotic senses and feelings that they
16 know what's best for this country. Because she's
17 referencing a historical date. So she's again
18 invoking people's patriotic sense.

19 January 6th of 2021 Donald Trump Jr. appears
20 in front of the crowd, and he tells the crowd if
21 you're going to be the zero and not the hero, we're
22 coming for you.

23 Rudy Giuliani later appears in front of the
24 crowd and says if we're right, a lot of them will go
25 to jail. So let's have a trial by combat.

1 Donald Trump himself appears at this rally,
2 and he has the opportunity to downplay this language.
3 But instead he makes a series of incendiary statements
4 himself. And he directs his followers to the Capitol
5 saying we're going to walk down to the Capitol. He
6 incites them saying you'll never take back our country
7 with weakness. You have to show strength and you have
8 to be strong. He goes on further saying something is
9 wrong here, something is really wrong, and can't have
10 happened. And we fight, we fight like hell. And if
11 you don't fight like hell, then you're not going to
12 have a country anymore.

13 He's preying on these people's fears and on
14 their sense of patriotism. Knowing this, he further
15 incites their actions and again directs the crowd,
16 saying let's walk down Pennsylvania Avenue.

17 Later on that day as the events unfolded,
18 Trump again tweeted, fueling the fire here, Mike Pence
19 didn't have the courage to do what should have been
20 done to protect our country and our constitution.

21 He's creating a sense of urgency amongst his
22 followers, and he's creating the sense of urgency
23 among people whose fears have been exposed that a new
24 president has been elected that does not align himself
25 to their viewpoints. And he again attempts to appeal

1 to his sense of patriotism by invoking the
2 constitution.

3 A close advisor of the president revealed
4 later that rather than appearing appalled, Trump was
5 more anxiously consuming the events on television,
6 enjoying the spectacle, and was encouraged to see his
7 supporters fighting for him. According to a senator
8 from Nebraska, White House aides say that Trump was
9 delighted while walking around the White House,
10 confused about why other people on the team did not
11 share his excitement.

12 Things got worse at the Capitol. Trump
13 initially refused requests to mobilize the DC National
14 Guard. Eventually the Guard was mobilized, by an
15 order from the Army Secretary and the Acting Defense
16 Secretary, which was approved by Former Vice President
17 Mike Pence. Ivanka Trump can't help herself but to
18 get involved as well, and she tweets and then later
19 deletes encouragement to those participating that she
20 called American patriots.

21 Things continued to get worse at the
22 Capitol. At 4:17 p.m. Trump releases a recorded
23 statement saying you have to go home now. We have to
24 have peace. And ending with we love you, you're very
25 special. And he's addressing the people who had

1 attended this event at the Capitol. It still wasn't
2 enough for Trump; he had to tweet again at 6:01 p.m.
3 that day, these are the things and events that happen
4 when a sacred landslide election victory is so
5 unceremoniously and viciously stripped away from great
6 patriots who have been badly and unfairly treated for
7 so long. Go home, with love and in peace. Remember
8 this day forever.

9 Trump would later go on to be called a
10 patriot for inciting this insurrection.

11 And the reason that I want to provide this
12 historical background is because the circumstances of
13 this event are incredibly unique. The circumstances
14 of this offense involve a president who was infamous
15 for being an accelerant of turmoil; who has now been
16 twice impeached; who took advantage of a very unique
17 set of political circumstances and appealed to his
18 supporters who had felt oppressed, alienated, and
19 disenfranchised by the results of the election. He
20 stoked people's fears by telling falsehoods about the
21 newly elected administration. He engaged their sense
22 of patriotism by referring to the constitution and to
23 their country. He invited the followers to join him
24 on the 6th, and he took every opportunity to rile his
25 base up, knowing that he had them afraid for what

1 would happen if he were no longer the president.

2 Although Donald Trump has yet to be indicted
3 for his role in this offense, he was the accelerant
4 for an entire multitude of people, and he was a
5 necessary component for the acts that transpired on
6 this day. He sewed the seeds of doubt regarding the
7 presidential election; he tweeted hundreds of false
8 claims; he riled people up; he preyed on their
9 emotions, and he preyed on their vulnerable mental
10 states after their leader had been ousted from office.

11 Donald Trump knows that cultivating his
12 following, making false claims regarding his political
13 opponents, and using social media as a weapon to
14 incite his followers to his call of action.

15 What's unique about this case is that these
16 circumstances will never again be present. Donald
17 Trump is not the president. He has been banned from
18 social media. For all intents and purposes, Donald
19 Trump has been canceled. He has no power, he has no
20 authority, and he's facing his own legal problems
21 which are still evolving. Further still, this offense
22 centered around the certification of the electoral
23 college votes, which is an event that won't happen
24 again in the near future.

25 This unique set of circumstances must be

1 considered by the Court in making a decision regarding
2 release or detention. A recent Court of Appeals
3 decision out of the DC circuit recognized that this
4 unique set of facts leading up to this offense was a
5 factor that the Court should consider. This case is
6 United States versus Munchel, which was decided
7 March 26th of 2021; and Munchel involved two
8 defendants who had been arrested in the Middle
9 District of Tennessee, and the judge in the Middle
10 District of Tennessee released the defendants and
11 found that they did not present a flight risk or pose
12 a danger to the community.

13 The release orders were stayed and the
14 governor appealed. A new detention hearing was held
15 in the DC circuit, and the judge there ordered both
16 defendants to be detained pending trial, explaining
17 that detention was appropriate in their case, because
18 they were charged with felonies while entering the
19 Capitol. And carrying a dangerous weapon.

20 After being ordered detained, both
21 defendants appealed, intending that the district court
22 was wrong in not deferring to the magistrate judge's
23 factual findings related to their dangerousness. The
24 court in Munchel examined the argument that this is a
25 unique set of circumstances, noting that the

1 appellants in that case had a unique opportunity on
2 January 6th because the electoral college vote tally
3 was taking place that day, alongside the concurrently
4 scheduled rally by Donald Trump. So they were able to
5 obstruct this vote by entering the Capitol with a
6 large group of people.

7 The Court recognized that the presence of
8 the group was critical in their ability to obstruct
9 the vote.

10 Those specific circumstances that led up to
11 that have since passed. And so the court in Munchel
12 held that this was a factor for the district court to
13 consider, and it is a factor that I'm asking this
14 Court to consider. That this specific offense cannot
15 be repeated. Because it involved a very unique set of
16 political circumstances and a former world leader who
17 has since been silenced.

18 I want to address specifically the issue of
19 danger first. The Munchel decision addressed
20 dangerousness as it relates to these Capitol riot
21 cases. As the Court is aware, in our society liberty
22 is the norm. And detention prior to trial is the
23 carefully limited exception. Specifically the Munchel
24 court highlighted that when it comes to dangerousness,
25 the Government must prove by clear and convincing

1 evidence that a defendant presents an identified and
2 articulable threat to an individual or to the
3 community.

4 This is a presumption case, but the
5 Government still maintains the burden of proving
6 dangerousness by clear and convincing evidence despite
7 the fact that a statutory presumption has been
8 invoked.

9 The Second Circuit has warned that in
10 applying these factors to any particular case, the
11 Court should bear in mind that this is a limited group
12 of offenders who should be denied bail pending trial.
13 The Government still must show that the danger posed
14 by the defendant cannot be alleviated by any
15 combination of bail conditions.

16 Here the Government cannot show an
17 identifiable and articulable danger to an individual
18 or to the community. Unique set of circumstances
19 leading up to this offense have passed.

20 Mr. Greene has no criminal history. He's a
21 veteran. He served his country for many years, and it
22 appears that he lived peacefully in his community with
23 no issue.

24 The events that Mr. Greene is alleged to
25 have participated in occurred on January 6th of 2021.

1 The search warrant was executed on January 18th of
2 2021. Mr. Greene's name does not appear in any
3 indictment until April 16th of 2021. He was not
4 arrested on a warrant until April 21st of 2021. So he
5 was apparently not enough of a priority for the
6 Government to charge an arrest for several months. He
7 could have been charged by complaint, he could have
8 been indicted earlier. Did the Government truly
9 believe that this was someone who was a danger? He
10 was left in the community for several months without
11 ever being charged. He knew on January 18th, 2021,
12 when the house was searched that something was coming.
13 He knew that that search was not the end of what was
14 happening. And yet where is he on the day of his
15 arrest. At that house. He doesn't flee, he doesn't
16 make plans to go anywhere. He's right where he's
17 always been, at the house.

18 There are no allegations that he engaged in
19 any illegal activity between the execution of that
20 search warrant in January and his arrest in late
21 April. The chats that the Government references, I
22 don't have those chats, I don't know their context, I
23 haven't seen them. However, the dates that the
24 Government referenced, the last date of the chat
25 mentioned at this hearing is January 17th. The day

1 before the execution of the search warrant.

2 Mr. Greene was certainly on law
3 enforcement's radar between the time of the execution
4 of the search warrant and his arrest in April, and I
5 have not been made aware of any allegations that he
6 engaged in any illegal activity or any violent
7 activity during that time. It would appear that he
8 otherwise lived peacefully in the community during
9 that time.

10 I want to talk about the firearms that the
11 Government has discussed and has introduced photos of.
12 The firearms that were found at the residence, there
13 were five firearms in total, and two of those were
14 lawfully possessed long guns. In fact, they were left
15 at his house after the execution of the search
16 warrant.

17 One was an AR-15, and two were handguns.
18 The handguns in and of themselves are not illegal to
19 possess in New York State. One of the handguns was
20 actually a commemorative firearm from his deployment
21 that was engraved with information about his unit.
22 And he was able to obtain that firearm at the end of
23 his deployment with his unit.

24 The Government asserts that the handguns
25 were not registered. I'm not sure if Mr. Steven Green

1 meant that they're not registered in New York State
2 and that Mr. Matthew Greene did not have a pistol
3 permit in New York State. As the Court is aware from
4 the pretrial report, Mr. Greene has lived in other
5 states. We are investigating the potential
6 registration of these firearms in the states.

7 There is no allegation in the indictment
8 that any of those firearms were present during
9 Mr. Greene's alleged presence at the Capitol on the
10 6th, although many others that day apparently did
11 bring weapons.

12 So in total the FBI seized three firearms,
13 and they left two lawfully possessed long guns at the
14 home.

15 In regards to the drop-down shelf, I am
16 unaware of any requirement that a firearm owner
17 display the firearms for anyone to see that enters his
18 home. I don't imagine that the shelf itself causes
19 any legal issues. And of course as the Court is
20 aware, people in this country can possess firearms and
21 ammunition for lawful purposes.

22 In regards to the ammunition, the Government
23 has introduced several exhibits related to this
24 ammunition. To an average person a thousand rounds of
25 ammunition sounds like a lot. For someone who

1 routinely goes to a gun range and is otherwise a
2 responsible gun owner, this sounds like an amount that
3 could last a day or two at the shooting range.

4 I would also note that there was an
5 ammunition shortage around that time, and so
6 ammunition providers saw that it was common for people
7 to buy large quantities in anticipation of not being
8 able to find any.

9 In terms of being a flight risk, I don't
10 believe that the Government had put on much evidence
11 in regards to this but I will argue that Mr. Greene is
12 not a flight risk. His family is here, his friends
13 are here, his life is here. He has lived in several
14 states due to his military service, but it's my
15 understanding that he has every intention of staying
16 in this area. He and his wife live here, his parents
17 live here, he has extended relatives here, he has
18 friends here, he owned a business that was here.
19 Again, he knew that this was coming in January. He
20 didn't leave.

21 The letters that I filed in support of him
22 showing that he is engaged in the community, that he
23 does acts of community service, and that he's engaged
24 with his church. So I don't believe that he is a
25 flight risk, although there are conditions of release

1 that could address any concerns related to being a
2 flight risk.

3 I also want to discuss the other two
4 individuals in the indictment. Mr. Greene is one
5 defendant in an indictment that lists three. The
6 first defendant, Dominic Pezzola, was ordered to be
7 detained pending trial. Out of the facts alleged in
8 the indictment, he's clearly the most culpable. There
9 are photos of him using a riot shield to break a
10 window. He also physically entered the Capitol. He
11 was part of a group that encountered Officer Eugene
12 Goodman. He took a selfie of himself smoking a
13 victory cigar. And a search warrant executed at his
14 residence revealed a thumb drive containing hundreds
15 of PDF files including a series called the Ultimate
16 DIY Machine Pistol, Ragnar's Big Book of Homemade
17 Weapons, and the Advanced Anarchist's Arsenal.

18 The second defendant who appears in the
19 indictment to be less culpable than Dominic Pezzola is
20 William Pepe. And William Pepe has been released.
21 William Pepe was indicted on exactly the same charges
22 as Mr. Greene, and he's been released on conditions
23 since January 22nd of 2021. I am not sure what his
24 criminal history is but at best it would be equal to
25 Mr. Greene's, which is that it's nonexistent.

1 There are photographs of Pepe pushing
2 barriers aside. There are photographs of Pepe taking
3 selfies inside the Capitol. The Government can put
4 William Pepe inside the Capitol, and he's been
5 released. Being charged with the same offenses as
6 someone who's been released, fairness would dictate
7 that Mr. Greene should likewise be released.

8 Mr. Pepe does not have many conditions of
9 his release. He only must not violate any laws, must
10 give a DNA sample if required, must keep pretrial
11 advised of his change of address or phone. He must
12 appear in court as required. He had to sign an
13 appearance bond. He has to check in with pretrial
14 weekly. He must not illegally possess firearms, so
15 it's not even a complete firearms ban, it's a ban of
16 illegal firearms. And he must abide by several travel
17 restrictions.

18 Pepe being charged with the same crimes as
19 Mr. Greene, and Mr. Greene not possessing any
20 handbooks related to DIY firearms or anarchist recipes
21 like Mr. Pezzola demonstrates that Mr. Greene should
22 be released just like William Pepe was.

23 The conditions that this Court could impose
24 on Mr. Greene could address any concerns that the
25 Court might have. I have spoken with Mr. Greene about

1 what the standard conditions typically are.

2 Mr. Greene has advised me that he is willing to abide
3 by any condition that this Court could impose. So he
4 is willing to abide by the typical standard conditions
5 of no new violations of law, giving a DNA sample if
6 required, keeping pretrial apprised of his address and
7 phone number, checking in with pretrial services and a
8 periodic report.

9 He is also willing to abide by special
10 conditions such as surrendering his passport, which I
11 don't believe William Pepe had to do; agreeing to not
12 obtain a new passport, again I don't believe William
13 Pepe had to agree to do that; restricting travel;
14 remaining at an authorized address; avoiding contact
15 with codefendants; participating in a home confinement
16 program that could include GPS, electronic monitoring,
17 or any other location verification system; abiding by
18 a curfew; reporting any law enforcement contact with
19 pretrial services within 72 hours; agreeing to only
20 use any internet capable device equipped with a
21 computer and internet monitoring program; and any
22 other conditions the Court may fashion.

23 These conditions would address the
24 Government's concern, if any, of risk of flight.
25 Because the location monitoring program would allow

1 pretrial to know exactly where Mr. Greene was at any
2 given moment.

3 Surrendering his passport and not obtaining
4 a new passport would also preclude him from foreign
5 travel. Location restrictions would preclude him from
6 domestic travel. Submitting to home visits from
7 probation would also ensure that he is staying where
8 he is supposed to be and not in possession of any
9 contraband.

10 These conditions or a combination of these
11 conditions can also address any concerns related to
12 dangerousness that the Government brings up. Again
13 GPS location monitoring is an option to the Court, and
14 it can show pretrial services exactly where Mr. Greene
15 is at any moment. The computer and internet
16 monitoring program can ensure that he is not having
17 contact over the internet with codefendants. It can
18 also ensure that he is not ordering any contraband off
19 the internet.

20 There are conditions and combinations of
21 conditions that can ensure that he appears to court
22 and can assure the Court that the community will be
23 safe. And so we would be asking for Mr. Greene's
24 release on conditions.

25 THE COURT: All right. Thank you, Miss

1 DiBella.

2 Mr. Steve Green, anything further to add?

3 MR. GREEN: Your Honor, without going out at
4 great length, I have just a few comments.

5 First of all with regard to the political
6 discourse that was occurring in the public domain
7 prior to the events of January 6th, of course they
8 provide no excuse for anyone's illegal conduct,
9 violent actions, or insurrection or disrupting an
10 essential core function of a Democratic government.
11 So there can be no comfort provided by political
12 commentary and public discourse leading up to the
13 events of January 6th. It clearly does not excuse
14 criminal behavior.

15 Secondly, with regard to Mr. Greene's
16 conduct on January 6th, it's clear by his actions that
17 he was willing to engage in insurrection, in
18 supporting violence, in aiding and abetting a
19 coconspirator who ended up breaking a window and
20 entering the Capitol. He was in one of the
21 photographs submitted by the Government shown running
22 towards the Capitol rather than being cautious or
23 simply being a hanger-by.

24 But perhaps most -- most importantly, we
25 should look, and the Court has seen, the receipts and

1 confirmations of what Mr. Greene did following his
2 return home to Syracuse and his own private residence
3 after the events of January 6th. He had several days
4 to get home to reflect on what he had done, to reflect
5 on what he had supported others to do, to reflect on
6 Mr. Pezzola's conduct, his codefendant, and to take a
7 look at the entire situation, which involved
8 confrontation with law enforcement, refusal of
9 following the lawful and reasonable orders of Capitol
10 Police. Several people were killed, and as alleged in
11 the indictment millions of dollars of damage were done
12 to the Capitol building.

13 With all of that in the news and in his mind
14 and from his own personal observations and personal
15 conduct at the Capitol and the Capitol grounds on
16 January 6, he had several days to be home, to reflect
17 on that, and think about what he had done. And rather
18 than express remorse, those confirmations and receipts
19 captured from his cell phone show that he did the
20 opposite. Not only did he not express remorse or
21 reflect on what he had done or step back from whatever
22 claims he has with regard to political incitement or
23 discord, he doubled down on what he had just completed
24 and what his organization and what others had done in
25 the Capitol. He went online and he ordered over

1 fif -- approximately \$1500 worth of assault rifle
2 ammunition. The assault rifle, as -- as the
3 Government mentions, the AR-15, was unlawfully held
4 because it had detachable high capacity magazines.
5 That is unlawful in New York, and it was unlawfully
6 held and it was not registered in New York.

7 Mr. Greene got home and ordered a thousand
8 rounds of ammunition for that -- for that assault
9 rifle within days of his return from the Capitol, in
10 his home, and ordered that that ammunition be sent to
11 his home. Clearly his home was turned into an arsenal
12 by those orders and is not a place for him to be able
13 to reside, nor can he -- can the Court protect the
14 safety of the community by allowing him to return to
15 his home which he basically equipped to be that
16 arsenal.

17 Additionally, in addition to the AR-15
18 ammunition that he ordered, shortly thereafter he
19 ordered another 1560 rounds for another assault rifle
20 that was not found in his home. Whether that is
21 another assault rifle he has control over or it was
22 ordered on behalf of someone else is unknown. But no
23 rifle for which that ammunition was designed was found
24 by law enforcement during the execution of the search
25 at his home.

1 And to the extent that there was any -- any
2 doubt left about his interest and support for ongoing
3 confrontation and violence, we only have to look to
4 the chats that were captured from his cell phone,
5 excerpts of which I read into the record and proffered
6 to the Court in today's hearing. He talks to others
7 about continuing the fight, continuing the struggle,
8 using military tactics. He references unconventional
9 warfare tactics, guerrilla operations, how he hunted
10 the Taliban; use those tactics, trust your gut. If he
11 tells you the person is weak, it will fold, get them
12 out of your life instantly. He talk -- he encourages
13 others, and clearly his mind-set is to continue what
14 he had just undertaken down in the U.S. Capitol.

15 Reflecting on the woman who was shot inside
16 the Capitol by law enforcement, he advises another
17 don't forget what they did. Again referring to
18 warfare tactics, guerrilla op, operations, military
19 tactics and hunting. Those are his words. And more
20 concerning, perhaps, than that is his reference to his
21 belief that he -- that there was a, quote, fucking rat
22 in our ranks. That clearly exhibits a mind-set of
23 intimidation to others who either participated in the
24 events that day or others who were -- who were present
25 and potentially could be witnesses or cooperate with

1 the Government and law enforcement in bringing to
2 justice people who engaged in violence that day.

3 Whether he is -- there is no condition that
4 in his home where -- where he has now amassed that
5 arsenal of ammunition that can prevent him from
6 intimidating others or engaging in conduct that would
7 perhaps obstruct others if he believes that in fact
8 that there are others cooperating with law enforcement
9 who he refers to as rats.

10 And referring to several other court
11 decisions, with regard to the Munchel decision and
12 other detention of defendants with regard to the
13 Capitol events, your Honor, defense counsel repeatedly
14 referred to unique circumstances, unique
15 circumstances. I have reviewed the Munchel decision
16 and other decisions, and the unique circumstance
17 prevented -- presented only in this case, making it
18 completely unique, is the activities of Mr. Greene
19 after he arrived home following his activities on
20 January 6th.

21 In no other case is a defendant found to
22 have unlawful AR-15s in his possession in his home
23 with detachable magazines fully loaded, 8 of them, and
24 then going immediately to -- within days going to the
25 internet to order another 25 -- more than 2500 rounds

1 of additional ammunition. That clearly is a danger to
2 the community, and that exhibits not only the
3 acquisition of that ammunition but it also exhibits
4 the mind-set of Mr. Greene that this -- the events of
5 January 6th were not an aberration or one-time event
6 but they were part of a continuum of events that he
7 continues to support that -- that his mind-set is
8 geared towards violence.

9 I know that I've heard that Mr. Pezzola is
10 detained, and I've been informed by -- by the
11 Government in DC, your Honor, that initially Mr. Pepe
12 was arrested on a misdemeanor complaint. And I
13 believe his release was at or about the time of his
14 arrest on those misdemeanor charges. Since then,
15 obviously he is now a codefendant in this indictment
16 with much more serious charges, and I have not yet had
17 a detailed discussion with the U.S. Attorney's Office
18 in the District of Columbia with regard to their
19 intentions for Mr. Pepe's release in the future.

20 Miss DiBella commented on the fact that the
21 chats referenced by the Government ceased on
22 January 17th. The device on which those chats
23 appeared was seized the following day, on
24 January 18th, so the Government has had no access to
25 Mr. Greene's communications since then. But up until

1 the day prior to the execution of the search warrant
2 it's clear that he maintained the same mind-set and
3 had not yet expressed remorse or any contrition about
4 the activities that he and his coconspirators engaged
5 in on January 6.

6 So I guess with all of that, your Honor,
7 it's clear that there are no conditions that could
8 assure the safety of the community and that with all
9 of the other factors, with his ability to travel, his
10 experience traveling abroad, his substantial financial
11 resources, and his other family circumstances, and the
12 items identified by the probation office, that there
13 is a risk. Now that he has been charged with seven
14 federal criminal charges including four substantial
15 federal felonies, there is also a risk that he will
16 not appear as directed by the Court.

17 And for all the reasons previously stated,
18 the Government argues that Mr. Greene cannot overcome
19 the presumption in this case and that it is
20 appropriate for the Court to order his pretrial
21 detention.

22 THE COURT: All right, Mr. Steve Green.

23 Miss DiBella, anything further to add?

24 MS. DIBELLA: Yes, your Honor, I just want
25 to discuss briefly the events after January 6th.

1 You can see in the exhibits the last date of
2 any order is January 9th. So if he has these devices
3 up until January 18th, the last date of the orders in
4 the exhibits that I have show an order of January 9th.
5 Again, the chats end January 17th. President Biden
6 was inaugurated on January 20th. I have not heard of
7 any activity of Mr. Greene since the insurrection.

8 You know, and the biggest thing that I
9 believe that the Government has left unanswered is if
10 he's so dangerous, if he actually is a danger to the
11 community and he can't be out there and he can't be
12 monitored and he can't be trusted, why was he in the
13 community since the execution of the search warrant on
14 January 18th, 2021, until his arrest on April 26th of
15 2021. If he is truly a dangerous person, why was he
16 in the community for two months with no incidents. He
17 could have been arrested, he could have been charged
18 by a complaint. He was not. He could have been
19 indicted sooner. He was not. So this man, if he's
20 not dangerous enough on that day, why all of a sudden
21 today has his danger increased enough to the point
22 where he needs to be detained pretrial. And so we
23 believe that the Government can't answer that question
24 and that he should be released.

25 THE COURT: All right, Miss DiBella.

1 Mr. Steve Green?

2 MR. GREEN: Your Honor, may I just make one
3 comment to that? I'll make it very brief.

4 The Court is undoubtedly very familiar with
5 the execution of search warrants, the seizure of
6 electronic devices, and the forensic examination of
7 those devices. It's -- it's clear and known to all
8 who participate in that kind of activity and oversee
9 that activity that if a device is seized by law
10 enforcement during the execution of a lawful search
11 warrant on January 18th, and then submitted
12 thereafter, after it's recorded and documented into
13 evidence and then submitted for forensic examination,
14 that that examination does not get returned for some
15 extended period of time; and there -- I don't have the
16 precise dates on which that -- that examination, which
17 is still ongoing, was at least partially completed,
18 but it's clear that forensic examination of multiple
19 electronic devices seized pursuant to a lawful search
20 warrant takes time, and that is at least part of the
21 explanation as to why there was a delay in the arrest
22 of Mr. Greene.

23 THE COURT: All right, Mr. Steve Green.
24 Thank you.

25 Miss DiBella, you get the last word if

1 there's anything additional.

2 MS. DIBELLA: In regards to that, I would
3 agree that forensic examinations take time. However,
4 this Court has seen, I have seen, I'm sure Mr._Green
5 has seen the Government arrest defendants on internet
6 crime cases on the same day that the device was taken.
7 In child pornography cases defendants are arrested
8 that day, they wait a year to get the forensics
9 examination back. And so truly if they were concerned
10 about his activities, some preliminary examination
11 could have been done on the devices, a determination
12 could have been made that day that hey, this is
13 someone who we need to act on quickly. Apparently
14 that determination was not a priority.

15 THE COURT: All right. Thank you, Miss
16 DiBella.

17 Thank you, Mr. Steve Green.

18 Thank you both for a very, very detailed,
19 extensive presentation of all the facts that I believe
20 both the Government and Defense believes are
21 applicable.

22 This Court, in reviewing this matter and in
23 rendering its decision, I first want to start by
24 setting forth on the record that nothing that this
25 Court says should in any way be construed or

1 interpreted as this Court rendering any views or
2 opinion regarding any political aspects underlying the
3 events that are alleged in the indictment.

4 This Court has no view or opinion about the
5 politics that apparently from both sides underlie some
6 or many of the activities. And nothing that this
7 Court says should be interpreted as such. And most
8 importantly, this Court in rendering its decision in
9 no way utilizes the political atmosphere or the
10 political points of view of any party or anything of
11 the sort. In fact, just the opposite; this Court is
12 only concerned with facts and information that is
13 relevant to the nature of the offenses that have been
14 charged, the nature and background of Mr. Matthew
15 Greene, and any other relevant information as it bears
16 upon either the issue of dangerousness or risk of
17 flight. So to be clear, nothing that I'm about to say
18 should in any way be interpreted as this Court
19 commenting on -- on the politics surrounding this
20 matter.

21 First of all, a couple of points that are
22 worth making. Although I do understand the defense's
23 recitation of the events, and again, political events
24 leading up to January 6th of 2021 and thereafter, and
25 the defense also characterizing this alleged event or

1 events that happened as being unique and will not be
2 repeated or cannot be repeated, the Court views a lot
3 of that information, again to the extent that I
4 utilize it, which again has nothing to do with the
5 political views; but to the extent that Matthew Greene
6 or any other persons who have been charged with the
7 alleged conduct, the Court views these as things that
8 may have motivated this defendant and others.

9 And motivations, as the parties know, plays
10 a part that perhaps explaining why someone is engaged
11 in an alleged act or alleged conduct, but other than
12 that motives do not and are not elements of any
13 offense, and they are not something that the
14 Government needs to prove or disprove. It can if it
15 chooses to offer that type of evidence, as can the
16 defendant, to mitigate, perhaps, their alleged conduct
17 and consequences that may flow from them; but the
18 motivations play a small part, in this Court's view,
19 of the issue of dangerousness and flight.

20 Secondly, I believe both counsel talked at
21 least to some degree about other persons that have
22 been arrested and charged on similar or different
23 charges; that being I believe Mr. Pezzola and
24 Mr. Pepe. Although I appreciate the counsel
25 referencing those matters, I do caution and state for

1 the record that this type of proceeding, a detention
2 hearing, is very, very much individualized. It is
3 almost impossible, if not impossible, to translate
4 what one court may have done in connection with one
5 defendant and how that translates, if at all, to what
6 another court or even that same court might or should
7 do as to a second defendant.

8 Everything about Mr. Matthew Greene is very
9 individualized, very particularized, and I believe
10 without much of a guess, I would guess that his
11 background and particular situation and family
12 background and everything else that we know about this
13 defendant is uniquely different from Mr. Pezzola, from
14 Mr. Pepe, or any other person. So although I
15 appreciate that, I caution that the parties, although
16 they articulated, argue that the Court should utilize
17 those other decisions in a way to make this decision,
18 I decline to do that and refrain to do that for many
19 reasons; and amongst those are the fact that those
20 defendants are not before me, their set of
21 circumstances are not before me, nor do I know all of
22 their circumstances that went into the analysis that
23 is required in order to make an informed and
24 intelligent decision.

25 So I start first by indicating for the

1 record that as the Government has set forth today and
2 also at the initial appearance, the eligibility for
3 the Government to seek detention, and I believe it is
4 correct what the Government has described, and that
5 being that pursuant to Title 18 U.S. Code
6 3142(f)(1)(A), the offense that is charged in count 6
7 of the superseding indictment is in fact a listed
8 offense in that section in that it is an offense that
9 is listed in 2332(b)(g)(5)B, and has a maximum penalty
10 of 10 years in connection with the count 6 charge.
11 Given that count 6 charges 18 U.S.C. 1361, it falls
12 under the description of that Section 2332(b)(g)5, and
13 therefore it is eligible as an offense for the
14 Government to seek detention.

15 Additionally, I believe the Government's
16 recitation as to the applicable presumption is also
17 correct. Section 3142(e)(3)(C) holds that for an
18 eligible offense, which is, as just stated count 6 is
19 an eligible offense, that a presumption arising that
20 no condition of release can be set that will guarantee
21 the appearance of the defendant at any future court
22 proceedings or guarantee the safety of the community.
23 So I believe there is a presumption that applies as
24 indicated during the arguments by the Government.

25 I also agree with defense counsel that the

1 presumption of detention does not end the analysis.
2 Though there is a presumption of detention as to both
3 dangerousness and flight, the Court's analysis
4 continues, and the other factors before the Court also
5 are to be considered.

6 One. Whether or not either of those
7 presumptions has been rebutted, and even if not
8 rebutted whether or not the Government has carried the
9 burden of proof at a detention hearing. At this
10 hearing the Government does bear the burden of
11 proving, if it can, by clear and convincing evidence,
12 that this defendant would pose a danger to the
13 community or others. And then the Government also
14 bears the burden by a preponderance of the evidence if
15 it can establish that this defendant would be a risk
16 of flight if released on conditions or a combination
17 of conditions.

18 So the Court, the Court begins first by
19 indicating the grand jury in the District of Columbia
20 has handed up a superseding indictment. Therefore I
21 am bound by the probable cause, if a grand jury has
22 already determined that there is probable cause to
23 believe that Defendant Matthew Greene has committed
24 counts 1, 2, 3, 6, 7, 8, and 9. So the Court accepts
25 that probable cause determination, and I do not do, as

1 I am not allowed to under the law, I do not do a
2 separate analysis of that.

3 With respect to the Government's motion for
4 detention, the Government is moving under 3142(f)(1)
5 to detain Mr. Greene on both being a risk of flight
6 and also being a danger to the community. As I just
7 articulated, there is a rebuttal presumption that
8 arises under Title 18 U.S. Code 3142(E)(3), and that
9 again is a result of count 6 charged in the
10 superseding indictment.

11 With respect to the evidence that has been
12 presented by the parties and the arguments therefrom,
13 I conclude that with respect to risk of flight, I
14 conclude that the defendant has rebutted the risk of
15 flight presumption. Although there is a presumption
16 of risk of flight by statute, there is a tremendous
17 amount of information in the record, in the pretrial
18 service report that would allow this Court, if the
19 issue was a risk of flight only, to fashion release
20 conditions that will guarantee the defendant's
21 appearance in court as required. By way of summary, I
22 point to all of the facts in the pretrial service
23 report, the defendant's long-standing community ties,
24 family ties, business ties within the community. I
25 also credit his character letters that describe the

1 defendant having a tremendous family support system in
2 the community and the like.

3 So with respect to the rebuttal presumption
4 as to risk of flight, I do find that Defendant has
5 rebutted that presumption.

6 And then secondly I find that the Government
7 has not met its burden with respect to risk of flight
8 to show that the defendant would in fact otherwise be
9 a risk of flight if released on conditions. And again
10 that burden is by a preponderance of the evidence.

11 As to the other prong, danger to the
12 community, the Court finds otherwise. One, I find
13 that the presumption again applies that the defendant
14 is a danger to the community. I also find that the
15 defendant has not rebutted the presumption of
16 detention with respect to danger to the community.
17 And furthermore, lastly, I also find that the
18 Government has, independently of the presumption, I
19 find by clear and convincing evidence that the
20 Government has carried its burden of proof when it
21 comes to the issue of dangerousness and danger to the
22 community. And in doing so I point to the following,
23 and for those reasons I am going to detain Mr. Matthew
24 Greene as being a danger to the community.

25 And I cannot put together conditions or a

1 combination of conditions that would alleviate my
2 concern with respect to dangerousness.

3 First, there are many, many facts that were
4 put forth here by both the Government and defense
5 counsel that to this Court, based on this record,
6 clearly indicate that the defendant continues to pose
7 a danger to the community and would so if released on
8 even the most strictest conditions. And even the ones
9 that defense counsel has articulated. I have
10 considered all those conditions, and they are very
11 restrictive, but those conditions and others that the
12 Court examined are insufficient, in this Court's mind,
13 to alleviate my concerns as to dangerousness.

14 First, I start off by indicating that the
15 allegations in the indictment are very serious. And
16 they do describe, the allegations do, a series of
17 events that indicate that there's probable cause that
18 this defendant and others did conspire together. And
19 the Court finds troubling, we have persons who engage
20 in a conspiracy, you have multiple individuals now who
21 are jointly moving towards an illegal goal, and any
22 time you have two or more people that are engaged in
23 an illegal conspiracy to achieve illegal acts, that in
24 and of itself poses a danger because of the fact that
25 multiple people may now be involved in what decisions

1 that group as a whole makes, what actions they take,
2 and how much they pursue those illegal goals.

3 But here it's clear that this defendant and
4 others planned to attend this event where these
5 alleged acts occurred. The allegations in the
6 indictment of what is alleged that this defendant and
7 others did is serious in nature to this Court; it
8 certainly involved what appears to be criminal
9 violence, threatening actions, and the like.

10 I also do credit the Government's recitation
11 of evidence indicating what happened after these
12 alleged acts were committed by this defendant and
13 others. I find very disturbing the chats that the
14 Government has set forth on the record indicating this
15 defendant's views well after these alleged acts
16 occurred. It indicates to this Court that this
17 defendant well after January 6th and the acts alleged
18 on that date was still of the same mind-set and had
19 still the same goals in mind in terms of the illegal
20 acts that were engaged in and that perhaps were going
21 to continue to be engaged in.

22 The -- the defense argument that these
23 unique circumstances cannot repeat themselves, I
24 disagree with that. Although the events that
25 apparently led to this January 6th activity, although

1 that event is over, that being the election and the
2 reporting of the results, the ongoing discourse as
3 re -- as evidenced by this defendant's activities is
4 not completed and does -- and is continuing. This
5 defendant and others, it appears, continue to have the
6 same view as that they had on January 6th in terms of
7 what they were willing to do to pursue those
8 activities.

9 And then of concern to the Court is the
10 weapons and the items that were located and found
11 within the defendant's residence. It is of extreme
12 concern that the defendant possessed several illegal,
13 not legal, weapons in this state. In New York State
14 there are strict laws about the possession of what are
15 otherwise termed as assault weapons and handguns. The
16 defendant was not legally entitled to possess the two
17 handguns and the AR-15, the weapons that he possessed.
18 It appears to this Court there is probable cause to
19 believe he committed at least three state felony
20 offenses by possessing those firearms.

21 The other extremely concerning aspect of the
22 firearms is the firearms --

23 MS. DIBELLA: I think we've lost Matthew
24 Greene.

25 THE COURT: All right. Let me.

1 Miss Painter, do you know if the jail is
2 still connected?

3 THE CLERK: I'm not sure. It doesn't look
4 like it. Let me find out what's going on with that.

5 THE COURT: Okay. Brandon, are you on the
6 line still?

7 A VOICE: I am, Judge.

8 THE COURT: Okay. Could you tell if the
9 jail is connected?

10 A VOICE: I do not see them in the
11 participants.

12 THE COURT: Okay. All right. So let me,
13 we'll stop and Miss Painter will call the facility and
14 find out if they can reconnect.

15 (Interruption in the proceedings)

16 THE COURT: Mr. Matthew Greene, did you hear
17 the part where I was discussing about the firearms
18 found in the residence?

19 THE DEFENDANT: That's when it died, your
20 Honor.

21 THE COURT: Okay. All right. I thought
22 that's probably somewhere, so I will backtrack a
23 little bit and pick up from there.

24 So as I was stating a few moments ago, part
25 of my analysis as to finding dangerousness in this

1 particular case has to do with the firearms that were
2 found at the defendant's residence. The three
3 firearms of great concern to this Court are the AR-15
4 that is an assault weapon under New York State law and
5 the two handguns that the authorities indicate the
6 defendant did not have any permit for. Those three
7 firearms and their illegal possession are of concern
8 to the Court when it comes to danger that the
9 defendant may nevertheless have if released on
10 conditions in this case.

11 Additionally, the other material that was
12 found, that being the large quantity of ammunition and
13 the what appears to be some type of ballistic vest and
14 the like, at least are indicative to this Court that
15 this defendant was consciously arming himself.

16 Now, there is nothing wrong with a citizen
17 lawfully possessing firearms. But the Court has
18 probable cause on this record to believe that this
19 defendant was not legally in possession of these
20 firearms, and therefore it appears at least that
21 there's probable cause that one or more New York State
22 felony firearms violations were committed.

23 And it is the combination of all of this
24 information; the illegal firearms, the chats and
25 communications post January 6th event by this

1 defendant and others that were recovered from the
2 devices of the defendant, in addition to the events of
3 the alleged acts on January 6th; it is all those
4 things combined that lead this Court to believe the
5 defendant would pose a danger. And there are no
6 conditions that I could set that will alleviate them.
7 Any conditions that I would set might allow probation
8 or law enforcement to uncover or discover additional
9 violence committed by this defendant. But it would
10 not alleviate my concern that this defendant would
11 engage in or engage in with others in additional acts
12 of violence.

13 I also point to the point that the
14 U.S. Probation Office has also recommended to this
15 Court in their pretrial services report that this
16 defendant be detained and that in their view there are
17 no conditions or combination of conditions that would
18 alleviate the concern of dangerousness.

19 Lastly, without getting into any specific
20 information, I do find a contributing factor and also
21 of concern the information contained in the pretrial
22 service report regarding this defendant's PTSD and
23 mental health.

24 So based on all of those facts and based on
25 all of the analysis of those facts, and again with all

1 of the facts that have been set forth by both parties
2 on this record, based on this record the Court will
3 detain the defendant as being a danger to the
4 community. I will issue a very, very short order on
5 the docket but my reasoning is set forth here on the
6 record. The reasons for my decision.

7 Miss DiBella, at the last appearance
8 Mr. Matthew Greene had waived an identity hearing. He
9 is not entitled to a preliminary hearing because there
10 is a grand jury indictment that was handed up. So as
11 far as I know the only matter left is whether the
12 defendant wishes to have a formal removal hearing or
13 whether he will waive a formal removal hearing. Have
14 you had a chance to discuss that with him yet?

15 MS. DIBELLA: Yes, I have, your Honor. It's
16 my understanding that at this point he would waive a
17 formal removal hearing.

18 THE COURT: All right. Mr. Matthew Greene,
19 Miss DiBella has indicated to the Court that you're
20 willing to waive a formal removal hearing, which means
21 that if we were to have a formal removal hearing the
22 Government would be required to provide certified
23 copies of the superseding indictment, the arrest
24 warrant, and paperwork of that nature to indicate to
25 the Court that this matter truly is in fact filed in

1 the District of Columbia and that you are subject to
2 be brought there. If you waive that, then we will not
3 have such a hearing. Instead this Court will then
4 order you removed in custody to appear in the District
5 of Columbia as set forth by that court.

6 Is that what you wish to do?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: All right. All right, I'll
9 accept your waiver of a formal removal hearing, and I
10 will order the Clerk of Court to enter an order of
11 removing this matter and ordering you removed to the
12 District of Columbia to appear there at the date set
13 by the court there. The identity hearing has already
14 been waived, and the detention order, as I indicated,
15 I will issue a short order summarizing the conclusion
16 by this Court here.

17 Miss DiBella, was there anything else you
18 think we need to take care of today?

19 MS. DIBELLA: No, your Honor.

20 THE COURT: All right. Mr. Steve Green,
21 anything else you think you need to take care of
22 today?

23 MR. GREEN: Nothing further from the
24 Government, your Honor.

25 THE COURT: Okay. All right. Mr. Matthew

1 Greene, I will order you remanded to the custody of
2 the U.S. Marshal Service, pending appearance in the
3 District of Columbia, and order this matter to be
4 removed to the District of Columbia.

5 All right, everyone, thank you very much.
6 Have a good rest of the day. And we are adjourned.

7 (Proceedings adjourned)

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1 CERTIFICATE OF OFFICIAL REPORTER
2
3

4 I, RUTH I. LYNCH, RPR, RMR, Federal Official
5 Court Reporter, in and for the United States
6 District Court for the Northern District of
7 New York, DO HEREBY CERTIFY that pursuant to
8 Section 753, Title 28, United States Code, that
9 the foregoing is a true and correct transcript
10 of the stenographically reported proceedings
11 held in the above-entitled matter and that the
12 transcript page format is in conformance with
13 the regulations of the Judicial Conference of
14 the United States.
15
16

17 Dated this 4th day of June, 2021.
18

19 By Ruth I. Lynch, RMR
20 RUTH I. LYNCH, RPR, RMR
21 Official U.S. Court Reporter
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23
24
25