

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No: 1:21-CR-86-PLF
	:	
ROBERT SANFORD	:	
	:	
Defendant.	:	

MOTION TO RECONSIDER DETENTION

COMES NOW the defendant, Robert Sanford, by and through undersigned counsel, and pursuant to 18 U.S.C. § 3145(b), and moves this Honorable Court to reconsider the order of detention imposed by the Honorable Henry S. Perkin, magistrate judge, in the Eastern District of Pennsylvania on January 14, 2021.

BACKGROUND

On January 13, 2021, a criminal complaint was issued against Mr. Sanford charging him with knowingly entering or remaining in any restricted building or grounds without lawful authority, in violation of 18 U.S.C. § 1752(a)(1) and (2); disorderly or disruptive conduct on capitol grounds, in violation of 40 U.S.C. § 5104(e)(2)(D); civil disorder, in violation of 18 U.S.C. § 231(a)(3); and assaulting, resisting, or impeding certain officers while engaged in the performance of official duties, in violation of 18 U.S.C. § 111(a)(1). On January 14, 2021, the warrant was executed by a special agent of the F.B.I. and Mr. Stanton appeared later that day before the Honorable Henry S. Perkin for bail status and arraignment hearing. (exhibit 1 “Transcript”)

During the hearing, the government conceded that this case does not involve a presumption of detention. (Transcript at pg 9) Nevertheless, the government argued that Mr. Sanford should be detained because he poses both a risk of flight and a danger to the community.

(Transcript at pg 9) With regard to danger, the government argued that the offense conduct described in the probable cause affidavit was against several law enforcement officers and involved a dangerous weapon, to wit: a fire extinguisher. (Transcript at pg 9-10) The government further argued that Mr. Sanford traveled to the District “as part of a group who attended both rallies with the President, and then subsequently went to the U.S. Capitol grounds for the purpose of basically participating in a riot that was an insurrection against the United States Government.” (Transcript at pg 10) With regard to nonappearance, the government argued that Mr. Sanford crossed numerous state lines in order to travel to the District and has no ties to the District. (Transcript at pg 10)

Defense counsel in turn argued that Mr. Sanford did not pose a danger because he did not travel to the District for the purpose of a riot. Instead, having not traveled to the District since the age of 13, he took the opportunity to take a free bus to the protests and had no plan beyond that. (Transcript at pg 11-12) In addition, Mr. Sanford did not enter the capitol building and is not a member of any extremist group involved with planning January 6th. (Transcript at pg 13-14) Defense counsel argued that Mr. Sanford did not pose a flight risk because he is a retired firefighter with twenty-six years of service, lived at the same address for twenty-three years, married for twenty-two years, and has three children. (Transcript at pg 12) Further, Mr. Sanford has no prior criminal history and no substance abuse or mental health history. (Transcript at pg 12) Mr. Sanford also self-surrendered to the F.B.I. and turned over his passport. (Transcript at pg 12)

In response, the government argued the during the execution of a search warrant at Mr. Sanford’s residence, agents recovered a t-shirt associated with the Proud Boys, which had been affiliated with the activity on January 6th. (Transcript at pg 14)

In ruling, the Court noted that there were conditions that would resolve the concerns about risk of flight. (Transcript at pg 15) However, there were not conditions that the Court could impose that would resolve the danger to the community. (Transcript at pg 15) In ruling, the Court noted the affidavit in support of the complaint showing a photo of Mr. Sanford “poised to strike a Capitol Police officer... with a fire extinguisher” and that he was in the crowd that breached the Capitol perimeter. (Transcript at pg 15) Subsequently, Mr. Sanford was remanded to the custody of the U.S. Marshal Service and this matter was transferred to this district.

Later, on January 14, 2021, the government advised defense counsel that a t-shirt related to the Proud Boys was not discovered during the search of Mr. Sanford’s residence as it had mistakenly represented to the Court during the detention hearing. In fact, no evidence associated with or linking Mr. Sanford to any extremist group was located during the F.B.I.’s extensive search of the residence. On January 26, 2021, defense counsel filed a motion to reconsider Mr. Sanford’s detention based on this development, however, the matter had already been transferred to this district and the Eastern District of Pennsylvania no longer had jurisdiction.

On February 5, 2021, a grand jury returned a five count indictment against Mr. Sanford charging him with: count one, civil disorder, in violation of 18 U.S.C. § 231(a)(3); count two, assaulting, resisting, or impeding certain officers while engaged in the performance of official duties, in violation of 18 U.S.C. § 111(a)(1) and (b); count three, entering or remaining in any restricted building or grounds without lawful authority, in violation of 18 U.S.C. § 1752(a)(1) and (b)(1)(A); count four, disorderly or disruptive conduct on capitol grounds, in violation of 18 U.S.C. § 1752(a)(1) and (b)(1)(A); and count five, act of physical violence in the capitol grounds or buildings, in violation of 40 U.S.C. § 5104(e)(2)(D).

On February 17, 2021, Mr. Sanford was transported to this district and appeared for arraignment on February 19, 2021. On February 25, 2021, Mr. Sanford appeared before this court for status and the matter was scheduled for a reconsideration of detention hearing on March 2, 2021. On February 25, 2021, a Pretrial Services Report was filed that indicated that no conditions or combination of conditions can reasonably assure the defendant's appearance or safety to the community. However, this report was generated without interviewing Mr. Sanford.

ARGUMENT

I. Standard of Review

Pursuant to 18 U.S.C. § 3145(b), this Court has the authority to reconsider a detention order issued by a magistrate judge upon motion by the defense. This Court's review of the magistrate judge's detention order is *de novo*. *United States v. Karni*, 298 F.Supp.2d 129, 130 (D.D.C. 2004). The district court must make its own *de novo* determination of the facts with no deference to the findings or legal conclusions of the magistrate judge. *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990); *United States v. Gaviria*, 828 F.2d 667, 670 (11th Cir. 1987).

II. The Bail Reform Act Favors Mr. Sanford's Release.

The burden of proof in a bond proceeding is on the government. As the Supreme Court has emphasized, "[i]n 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). Thus, the Bail Reform Act requires that a person charged with an offense be released on personal recognizance or upon execution of an unsecured bond unless further conditions are necessary to reasonably assure attendance at trial and the safety of the community. See 18 U.S.C. §§ 3142(a) & (b). "The . . . drafters aimed toward a narrowly-drafted statute . . . addressed to the danger

from ‘a small but identifiable group of particularly dangerous defendants.’” *United States v. Singleton*, 182 F. 3d 7, 13 (D.C. Cir. 1999) (emphasis added) (quoting S. Rep. No. 225, 98th Cong., 1st Sess. 6-7, reprinted in U.S. Code Cong. & Ad. News 3189, 1983 WL 25404, at *3189) “[A]ll doubts regarding the propriety of release [must be resolved] in the defendant’s favor.” *United States v. Sanchez-Martinez*, No. 13-CR-236, 2013 WL 3662871, at *5 (D. Colo. July 12, 2013). The Act permits pretrial detention only if no condition or combination of conditions exists that would provide that reasonable assurance. 18 U.S.C. § 3142(e). The sole exception to the law’s strong preference for release is the list of so-called “presumption” offenses, where the burden is on the defense to rebut the need for detention. *Id.* This is not a § 3142(e) “presumption” case, and thus the BRA strongly favors release unless the government carries it burden to prove otherwise. *See, e.g., United States v. Giordano*, 370 F. Supp. 2d 1256, 1261 (S.D. Fla. 2005) (BRA favors release).

The court may not detain an individual unless the government proves by clear and convincing evidence that no combination of conditions can reasonably assure the safety of the community; or proves by a preponderance of the evidence that no combination of conditions will reasonably assure the defendant’s presence at future proceedings. 18 U.S.C. §3142(f); *United States v. Stewart*, 19 F. App’x 46, 48-49 (4th Cir. 2001); *United States v. King*, 849 F.2d 485, 489 (11th Cir. 1988). The Bail Reform Act contemplates only that a court be able to “reasonably assure,” rather than guarantee, the safety of the community. *United States v. Hir*, 517 F.3d 1081, 1092 (9th Cir. 2008). In determining whether any combination of conditions is sufficient to assure the objectives of pretrial release, the court cannot read § 3142 to require a guarantee against flight or danger. *See United States v. Portes*, 786 F.2d 758, 764 n.7 (7th Cir. 1985); *United States v. Fortna*, 769 F.2d 243, 250 (5th Cir. 1985); *United States v. Orta*, 760 F.2d 887

(8th Cir. 1985). If the plan for pretrial release conditions offered by a defendant is reasonable, and provides a means of monitoring his compliance with the terms and conditions of pretrial release, then the defendant should not be detained. *See United States v. Walters*, 89 F. Supp. 2d 1217, 1222 (D. Kan. 2000).

There is not a presumption of detention in this case and certainly there are conditions or a combination of conditions that will reasonably assure Mr. Sanford's appearance and the safety of the community. Mr. Sanford does not pose a danger to the community. He is 55 years old and has no prior criminal history. He traveled to the District on a bus organized by Turning Point USA, a mainstream young conservative organization, with approximately fifty other people. Mr. Sanford brought a backpack that contained sandwiches, snacks, water, and first aid supplies. After 26 years of service as a firefighter, he always has first aid supplies on hand. When he arrived at the Washington monument there was already a huge crowd. He listened to the speakers then marched to the Capitol along with the crowd. When he arrived at the Capitol there were already thousands of people on all sides of the building and Mr. Sanford does not recall seeing a perimeter fence. It is noteworthy that Mr. Sanford did not enter or attempt to enter the capitol building and is not a member of or otherwise associated with any extremist group involved with planning January 6th. He did not travel to the Capitol with an extremist group. He did not bring a weapon or wear tactical gear. He did not coordinate with other individuals once at the Capitol. However, video clearly shows him throwing a fire extinguisher, that had the weight of being empty, into a crowd of police officers, striking three. Even though there was potential for injury as a result of this offense conduct, none of the officers appear to have been physically injured. While the Court below found that Mr. Sanford poses a danger to the community, that ruling occurred prior to the inauguration when there was fear that right wing

extremists may coordinate another violent protest and with the mistaken understanding that Mr. Sanford was associated with the Proud Boys. Neither of those concerns remain at this time. Furthermore, Mr. Sanford has repeatedly expressed contrition to undersigned counsel for his actions on January 6th and is adamant that he has no interest in protest or politics going forward. As a result, the safety of the community would be reasonably assured if Mr. Sanford were released with conditions or a combination of conditions such as 24-hour home confinement with electronic monitoring and/or has a third-party custodian.

Mr. Sanford does not pose a flight risk. Although he resides outside the District, his home is less than two hours from the courthouse. Mr. Sanford grew up in Chester, Pennsylvania, and has extensive ties to that community. He is a retired firefighter with twenty-six years of service, lived at the same address for twenty-three years, married for twenty-two years, has three children, and a mortgage. Further, Mr. Sanford has no prior criminal history and no substance abuse or mental health history. Mr. Sanford also self-surrendered to the F.B.I. and turned over his passport. It is also noteworthy that a close friend reported him to the F.B.I. so clearly his support network will help enforce any condition or combination of conditions that this Court may impose.

Accordingly, Mr. Sanford respectfully requests that this Court reconsider the detention order issued in this case and release Mr. Sanford to home confinement with electronic monitoring and/or a third-party custodian along with any other conditions or combination of conditions that this Court believes are appropriate to reasonably assure the safety of the community and Mr. Sanford's presence at future proceedings.

Respectfully submitted,
Robert Sanford

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of February, 2021, I electronically filed the foregoing motion with the clerk of the court using the CM/ECF system, which will send an electronic copy to the following:

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT SANFORD,

Defendant.

Case No. 5:21-mj-00061

Allentown, Pennsylvania
January 14, 2021
1:52 p.m.
conducted via video conference

TRANSCRIPT OF BAIL STATUS AND ARRAIGNMENT HEARING
BEFORE THE HONORABLE HENRY S. PERKIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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1 (Call to order at 1:52 p.m.)

2 THE COURT: I believe the final case this afternoon
3 is United States of America v. Sanford. Am I correct? And
4 we're waiting for Mr. Sanford.

5 THE DEFENDANT: That would be me, Your Honor. Good
6 afternoon.

7 THE COURT: Good afternoon.

8 Mr. Latoison, correct?

9 MR. LATOISON: Yes, Your Honor.

10 THE COURT: Okay, thank you.

11 And do we have Janani Iyengar with us?

12 MS. IYENGAR: Yes, Your Honor, Janani Iyengar for the
13 United States.

14 THE COURT: Did I butcher your name?

15 MS. IYENGAR: No, that's fine.

16 THE COURT: All right. Thank you. I was hoping not.

17 All right, I believe we're all here (indiscernible)
18 case. This case is in the matter of the United States of
19 America v. Robert Sanford, which bears number 21-MJ-61 in the
20 United States District Court for the Eastern District of
21 Pennsylvania.

22 It also bears number 21-MJ-52 in the District of
23 Columbia. This is Mr. Sanford's initial appearance with regard
24 to the charges in this matter in the complaint and warrant that
25 I will get to in a moment.

1 Let the record reflect that these proceedings are
2 (indiscernible) video pursuant to the Cares Act authority and
3 standing orders of Chief Judge Sanchez in the Eastern District
4 of Pennsylvania.

5 These proceedings are being taped now for the record
6 by our Court Recorder.

7 Present on behalf of the United States
8 (indiscernible) from the Eastern District of Pennsylvania
9 (indiscernible) Attorney Sean McDonnell and for the District of
10 Columbia, Assistant United States Attorney Janani Iyengar.

11 The Defendant is represented record by Attorney
12 Enrique Latoison. All are present and I note that Mr. Sanford
13 is present as well. And I'm going to first ask Mr. Sanford if
14 you can introduce yourself.

15 THE DEFENDANT: You want me to start, Your Honor?

16 THE COURT: Are you able to hear me?

17 THE DEFENDANT: I am hearing a little, but yeah, I
18 can year you, yes.

19 THE COURT: If you need to move closer, feel free. I
20 want to make sure you can hear the proceedings. Are you able
21 to hear me?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right, thank you. Let me also advise
24 the attorneys for the United States of their obligations under
25 Brady v. Maryland, Giglio v. United States and subsequent case

1 (indiscernible) the disposal (indiscernible) to the Defense as
2 to criminal liability on the charged offenses for mitigation of
3 any punishment that may be imposed.

4 That includes, but is not limited to information
5 covered by Brady and Giglio that they (indiscernible) failed on
6 the credibility and accuracy of the Government witnesses or on
7 the admissibility of Government evidence.

8 The Court also notifies the Prosecutors of the
9 possible consequences of a violation of this order, including
10 the granting of a continuance of (indiscernible) disciplinary
11 referral, and any other relief authorized.

12 I want to note that through prior advice, there are
13 maybe several members of the media and the press that are
14 listening to this hearing. I must remind them that you are not
15 authorized to take a video of court proceedings or otherwise to
16 record them.

17 But the recording that is made and the official
18 report of these proceedings by the Court is available
19 through -- upon appropriate request.

20 With that, Mr. Sanford, I want to advise you that you
21 have the right to remain silent and anything you say
22 (indiscernible) can be used against you.

23 You also have the right to a lawyer. And if at any
24 time, you cannot afford a lawyer, I will appoint one for you.

25 To engage the services (indiscernible), am I correct?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: So you are not (indiscernible) that I
3 appoint attorney, is that correct?

4 THE DEFENDANT: My attorney is on the screen.

5 THE COURT: Yes, no, you do not need a court-
6 appointed attorney?

7 THE DEFENDANT: You're coming in and out. You're
8 breaking up. I can't understand you.

9 THE COURT: Thank you for telling me that. Let me
10 see if you can. You do (indiscernible) court-appointed
11 attorney appointed for you by the Court; is that correct, sir?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. If at any time you can't hear,
14 just raise your hand or tell me, okay? I want to stop and make
15 sure that you can hear everyone.

16 All right, very good. Bear with me one second,
17 everybody, so I get the right paper in front of me.

18 Mr. Sanford, I want to tell you what you're charged
19 with in this complaint and warrant. You're charged with a
20 violation of Title 18 of the United States Code, §1752(a)(1) and
21 (a)(2). That's a charge of Knowingly Entering or Remaining in
22 Any Restricted Building or Grounds Without Lawful Authority.

23 You're also charged with a violation of Title 40 of
24 the United States Code, §5104(e)(2)(D). That's a charge of
25 Disorderly or Destructive Conduct on Capitol Grounds.

1 You're charged with a violation of Title 18 of the
2 United States Code, §231(a)(3) and a charge of Civil Disorder.

3 And you're charged with -- finally with the offense
4 of 18 United States Code 111(a)(1) which is Assaulting,
5 Resisting, or Impeding Certain Officers while Engaged in the
6 Performance Of Official Duties.

7 This is a complaint warrant. You are not required to
8 respond to the complaint warrant today, but you do have a right
9 to a hearing to determine whether there's probable cause for
10 the issuance of this complaint warrant.

11 Mr. Latoison, can you tell me whether or not your
12 client wishes to have such a hearing in this District or wishes
13 to have a hearing in the District of Columbia or a hearing at
14 all?

15 MR. LATOISON: Good afternoon, Your Honor. Enrique
16 Latoison, ID number 92931. After speaking with the AUSA, we do
17 waive our right to the probable cause hearing, Your Honor.
18 We'd like to argue detention.

19 THE COURT: Thank you. On that basis, I find that
20 there was probable cause for the issuance of the complaint
21 warrant in this matter.

22 That resolves the issue of probable cause in the
23 Eastern District of Pennsylvania as well as the District of
24 Columbia. There is probable cause.

25 What is the position of the (indiscernible) well

1 first of all, this is a motion by the Government for removal to
2 the District of Columbia to respond to these charges. These
3 charges are not requested in the Eastern District of
4 Pennsylvania. They were issued in the District of Columbia.

5 As a result, there is a (indiscernible) to determine
6 whether Mr. Sanford's going to be removed to that District.

7 Mr. Sanford is entitled to a hearing to determine
8 whether he is the same individual who is charged in the
9 District of Columbia.

10 Mr. Latoison, tell me whether or not your client
11 wishes to have (indiscernible)?

12 MR. LATOISON: Yes, Your Honor. We do not wish to
13 contest the removal of the case to the D.C. jurisdiction, Your
14 Honor.

15 THE COURT: Thank you very much. The Government's
16 motion for removal is granted. And I find that he is in fact
17 the same person that is charged in the criminal complaint that
18 I just reviewed with him.

19 What is the position of the United States with regard
20 to detention pending removal?

21 MS. IYENGAR: Your Honor, as the Government's
22 detention member stated, the Government is asking that the
23 Defendant be detained pending transport to the (indiscernible)
24 he has to answer for these charges.

25 I can go through the Government's argument at this

1 time. I'm not sure if the Court would like to hear from my
2 argument first or like to hear from the Defense first?

3 THE COURT: Well, am I correct, this is not a
4 presumption of the (indiscernible)?

5 MS. IYENGAR: Yes, that's correct. There's
6 (indiscernible).

7 THE COURT: All right, then I would say that the
8 burden is on the United States.

9 But just for clarity, I think, Mr. Latoison, you said
10 you are contesting the Government's motion for detention; am I
11 correct?

12 MR. LATOISON: That is correct, Your Honor.

13 THE COURT: Well, I'm ready and available to hear the
14 Government's motion at this time. If you would like to
15 proceed, you may do so.

16 MS. IYENGAR: Yes, Your Honor, thank you. So the
17 Government believes both for the safety of the community, as
18 well as to ensure the Defendant's appearance in court for his
19 next court date in the District of Columbia, that the Defendant
20 does need to be detained pending transfer to the District.

21 In terms of the safety of the community prongs of the
22 argument, this was the defense -- as the Court can see from
23 reading the papers that were submitted to the Court that were
24 committed against a law enforcement officer, several federal
25 law enforcement officers.

1 It was a violent offense and it was an offense that
2 involved the use of a dangerous weapon, which was a fire
3 extinguisher in this case.

4 Not only that, but the Defendant also travelled down
5 to the District of Columbia as part of a group who attended
6 both the rallies with the President, and then, subsequently
7 went to the U.S. Capitol grounds for the purposes of basically
8 participating in a riot that was an insurrection against the
9 United States Government.

10 So I think based on that, that establishes that there
11 is a danger to the community of allowing Mr. Sanford to remain
12 on release pending these charges.

13 In terms of the -- ensuring his appearance at his
14 next court date, I would just like to note that the Defendant
15 did cross multiple state lines to travel down to the District
16 of Columbia to commit the offenses that are outlined in the
17 complaint in this case.

18 And as far as the Government is aware, Mr. Sanford
19 has no ties to the District of Columbia. And that makes the
20 Government more concerned about his ability to appear at his
21 next court date in the District.

22 THE COURT: I have a question for you. You referred
23 to the case that was submitted to me, I -- the papers include,
24 and I'll identify them, the complaint and warrant, as well as
25 the probable cause affidavit supporting that.

1 Are you referring to the probable cause affidavit
2 when you refer to the papers?

3 MS. IYENGAR: Yes, I'm referring to that, yes.

4 THE COURT: Has Mr. Latoison for the Defendant been
5 presented a copy of the probable cause affidavit?

6 MS. IYENGAR: Yes, I did submit a copy of the
7 probable cause affidavit, as well as the complaint and the
8 arrest warrant (indiscernible).

9 THE COURT: Okay, very good. Thank you. And the
10 reason I raise that, I just want to make sure that if I rely on
11 it, it's properly (indiscernible)?

12 MS. IYENGAR: Absolutely.

13 THE COURT: Thank you.

14 Mr. Latoison, you may proceed.

15 MR. LATOISON: Your Honor, thank you for allowing me
16 to be heard. I do recognize the fact that there were plenty of
17 individuals who may accurately be depicted as AUSA has stated
18 for the record of traveling for the purpose of a riot or
19 traveling for the purpose to basically (indiscernible) that she
20 indicates in her argument.

21 That could be not further from the truth when it
22 comes to my client and my client's reasonings for travelling to
23 D.C., having not been there since the age of 13 years old and
24 had -- went down there for protests on a free bus that was
25 being offered for free rides.

1 That is not an accurate reference to my client as
2 this was a pre-planned (indiscernible). So (indiscernible) get
3 into an interaction that (indiscernible) position.

4 I am well aware of the fact that, you know, there's
5 information that's out that there were plenty of individuals
6 that were doing those things for those reasons.

7 So I would first argue to the Court that just the
8 idea that he travelled statewide at this time as accurate, this
9 information that he goes -- is being referenced Mr. Sanford.

10 Also, with his ability to -- for him not to be a
11 flight risk, he was a firefighter for 26 years without any
12 issues. You know, he retired in March 1st of 2020, I think had
13 no write-ups, did a great job as a firefighter.

14 He's lived in the same address for the last 23 years.
15 Been married for at least 22 years. He has a 23-year-old, a
16 16-year-old, and a 13-year-old child.

17 He's never had an arrest in his entire life. He's
18 never been in any kind of rehab for any kind of drugs or
19 alcohol, never had any kind of mental issues (indiscernible),
20 never been committed in any way, shape, or form.

21 He has a mortgage. He is a father. Most
22 importantly, Your Honor, I've already spoke to the Court,
23 understanding that he had (indiscernible).

24 And I've been in touch with the AUSA yesterday. AUSA
25 had put me in touch with FBI agent. The (indiscernible) they

1 asked that Mr. Sanford be at 5:45 a.m. this morning at a
2 location.

3 He was there at 5:30 early. He showed up with his
4 passport as I indicated to him to do, so the passport would be
5 in federal custody.

6 He showed up one time and showed up early. He showed
7 up as he was instructed. He is not a flight risk. I was not
8 able to have his family here with me at my location where I'm
9 at due to Covid, but I can tell you that, you know, he's
10 married, he has family members that are present at another
11 location.

12 He's also been under -- he's been under the, you
13 know, kind of the advice of a former District police officer
14 that was an officer for about -- I think about 30 years, who
15 originally contacted me with Mr. Sanford. And that officer was
16 in contact with the FBI also.

17 So there's no flight risk here, Your Honor. He has a
18 solid address, solid family ties, under counsel from myself,
19 under counsel for someone -- from a police officer.

20 He's not a danger or threat. Again, he's not been to
21 D.C. since the age of 13. He's 55 years old. He has no reason
22 to go back there. We are completely okay with any kind of
23 parameters that Your Honor feels is appropriate.

24 He is not part of any extremist groups. He's not a
25 part of any groups that were a part of attempting what took

1 place, which was a blemish, obviously, in our democracy.

2 He's not part of any of those groups. He was accused
3 of being around the back of the Capitol building, never being
4 accused of going inside the building, Your Honor.

5 So, for all those reasons, including the fact that
6 he's taking this seriously, as well as being (indiscernible),
7 and we show nothing but cooperation, and he claims to continue
8 that path, Your Honor, I ask that he be released to be able to
9 go home back to his family and to remain there, Your Honor,
10 pending the disposition of his case.

11 Thank you for allowing me to speak, Your Honor.

12 THE COURT: Thank you very much. I'll allow the
13 Government brief rebuttal, but it has to be rebuttal, not new
14 argument.

15 MS. IYENGAR: Yes, Your Honor. I did just want to
16 respond to what Mr. Latoison said about not being affiliated
17 with any organization, extremist organizations as he put it.

18 There was a search warrant that was executed at the
19 Defendant's home this morning. And there was paraphernalia. I
20 believe there was a T-shirt that was associated with the Proud
21 Boys group, which has been affiliated with some of the activity
22 that was taken -- that was taking place in the District on
23 January 6th. So I did just want to make the Court aware of
24 that.

25 THE COURT: Thank you.

1 I think Mr. Latoison has very eloquently argued the
2 question of risk of flight.

3 I don't agree with you, Mr. Latoison, that there's no
4 risk of flight, but I do believe that based upon on the facts
5 that are before me, I could impose conditions or a combination
6 of conditions that would resolve the concern about risk of
7 flight in this case.

8 So let me address the danger to the community. He is
9 not charged with simply taking a free bus ride to Washington,
10 D.C. He's charged with the offenses that I've just raised.
11 Those involve breach of the Capitol.

12 The reason I asked the United States whether she was
13 referring to and whether you have the probable cause affidavit
14 because that affidavit has a portion of a video, in one phone
15 picture, which has Mr. Sanford poised to strike a Capitol
16 police officer or other officers with a fire extinguisher.

17 He is in the crowd that has breached the perimeter
18 (indiscernible) of the Capitol. That clearly is a danger to
19 the community. It's a danger to the Capitol. It was a danger
20 to our democracy, our legislators.

21 The question is other conditions or a combination of
22 conditions that I can impose that would resolve that. I've
23 listened to the arguments that were very well presented by both
24 counsel in this matter and I cannot find a condition or
25 combination of conditions that would resolve that danger.

1 On that basis, I will grant the Government's Motion
2 for Detention based upon danger to the community, not upon risk
3 of loss -- risk of flight, I should say.

4 And remand him to the custody of the Marshal Service
5 and his removal to respond to these charges in the District of
6 Columbia.

7 Is there anything further with regard to this event
8 this afternoon?

9 MR. LATOISON: Not from me, Your Honor.

10 MS. IYENGAR: And not from the Government.

11 THE COURT: All right, if there's nothing further,
12 thank you very much. Everyone is excused and Court is
13 adjourned for the day. I'm sorry, one -- my assistant is
14 telling me one more thing.

15 THE CLERK: I just need the waiver of identity form
16 executed on his behalf. So I will be sending it to his
17 attorney by email, so that you may execute it on his behalf and
18 get it back to me.

19 THE COURT: Is that fine, Mr. Latoison?

20 MR. LATOISON: Yes, sir.

21 THE COURT: Yeah, you can do that on behalf of Mr.
22 Sanford.

23 All right, thank you very much. If there's nothing
24 further, as I said, Court is adjourned for the day. Thank you
25 very much.

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MR. LATOISON: Thank you, Your Honor.

(Proceedings concluded at 2:11 p.m.)

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CERTIFICATE

I, Chris Hwang, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

CH

February 22, 2021

Chris Hwang
Transcriber

Date