

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

UNITED STATES OF AMERICA)
)
) **No. 1:21-cr-28 (APM)**
 v.)
)
)
 CONNIE MEGGS)

**GOVERNMENT’S OPPOSITION TO
DEFENDANT’S RENEWED REQUEST FOR PRETRIAL RELEASE**

The United States respectfully files this memorandum in opposition to Defendant Connie Meggs’s renewed request for pretrial release. Defendant Meggs plotted with her co-conspirators to stop the certification of the Electoral College vote, prepared to use violence if necessary, and stormed the Capitol. After she stormed the Capitol, she deleted all the text messages on her iPhone for the period January 1 to 6, 2021. For these reasons, the Court should maintain the order that the defendant be detained pending trial.

I. Background

Video recorded on January 6, 2021, captured the defendant among a “stack” of more than a dozen individuals dressed in camouflaged para-military gear moving in a deliberate and organized manner toward the Capitol building. An additional recording shows the stack moments later embedded near the front of a violent mob that is attempting to literally break open the doors of the Capitol building. The video depicts the doors later opening and the subsequent flow of people into the building, to include the defendant and members of the stack. Selfies and surveillance video taken inside of the Capitol rotunda further evince Defendant Meggs’s and her coconspirators’ presence inside.

Co-defendant Jessica Watkins characterized their insurgent effort to breach the Capitol building as “forcing entry into the Capitol building” and said that it was “[f]orced. Like Rugby.” On the afternoon and evening of January 6, co-defendant Graydon Young wrote on Facebook that “[w]e stormed and got inside,” and co-defendant Kelly Meggs wrote in a Signal chat, “Ok who gives a damn who went in there.... We are now the enemy of the State.” An hour later, Kelly Meggs wrote to the same Signal chat: “We aren’t quitting!! We are reloading!!”

Based on her actions described above, on February 17, 2021, Defendant Meggs was arrested on a complaint charging her with conspiracy, in violation of 18 U.S.C. § 371 (a felony); destruction of government property, in violation of 18 U.S.C. § 1361 (a felony); obstruction of an official proceeding, in violation of 18 U.S.C. § 1512(c)(2) (a felony); entering a restricted building without lawful authority, in violation of 18 U.S.C. § 1752(a) (a misdemeanor). Defendant Meggs made her initial appearance in the Middle District of Florida the same day, and was detained pending a hearing pursuant to 18 U.S.C. § 3142(f).

On February 19, 2021, a federal grand jury in Washington, D.C., indicted Defendant Meggs (along with eight co-defendants, including her husband Kelly Meggs) on the same four counts from the complaint.¹

On February 22, 2021, Magistrate Judge Philip R. Lammens of the Middle District of Florida conducted a detention hearing and ordered that Defendant Meggs be detained pending trial. Judge Lammens wrote:

There is a presumption of detention in this case. The conduct is such that someone who is alleged to have committed it is inherently unlikely to appear or not endanger the community. In other words, given the nature of the alleged conduct they are a risk of flight and danger to the community. The nature of the offense and the weight of the evidence are weighed heavily then....

¹ On March 12, 2021, the grand jury handed up a second superseding indictment, adding a tenth defendant but leaving the charges as to Defendant Meggs unchanged.

This case isn't just about breaking the law. We see those cases everyday. This case is different. It is more. It is about challenging the very existence of the law. It is about a challenge to the very institution responsible for making the law, while it was in the process of carrying out its lawful duty. They were carrying out a duty that their oath required them to fulfill....

When the Court considers then the seriousness of the charges against you and the weight of the evidence, there is only one conclusion. You are a danger to the community and must be detained.

(ECF 15; Case 5:21-mj-01035-PRL (M.D. Fla.))

On March 9, 2021, Defendant Meggs filed the instant request.

II. Legal Standard

Defendant Meggs styles her pleading as a “renewed request for pretrial release,” but it is unclear to the government whether she is seeking to “reopen[]” the detention hearing under Section 3142(f) based on alleged new material information, or whether she is filing a “motion for revocation of amendment” of Magistrate Judge Lammens’s detention order under Section 3145(b). Her pleading cites to Section 3142 (but not Section 3145), and suggests that the fact that the U.S. Marshals Service (USMS) was unable to transport her because of her jewelry is a new fact not known to Magistrate Judge Lammens at the time he made his decision. (ECF 67 at ¶ 10.) For that reason, it appears that she is seeking to “reopen” the detention hearing under Section 3142(f), which means she must come forward with “information that was not known to the movant at the time of the hearing and that has a material bearing” on the underlying detention question. *See United States v. Lee*, 451 F. Supp. 3d 1, 5 (D.D.C. 2020).²

² If Defendant Meggs is indeed moving for review under Section 3145(b), the Court should review the magistrate’s release order *de novo*. *See, e.g., United States v. Tortora*, 922 F.2d 880, 883-84 (1st Cir. 1990) (district court engages in *de novo* review of contested pretrial release or detention order made by magistrate).

At a detention hearing, the government may present evidence by way of a proffer. *United States v. Smith*, 79 F.3d 1208, 1209-10 (D.C. Cir. 1996).

III. Argument

a. Alleged “Changed” Circumstances

Here, Defendant Meggs seems to be requesting release based on a proffered change in circumstances: she argues that release is warranted because the USMS did not or could not expeditiously transfer her to the Washington, D.C., area. (ECF 67 at ¶ 10.)

But on March 12, 2021, the USMS informed the undersigned – and the undersigned promptly informed the Court and Defendant Meggs’s counsel – that Defendant Meggs’s ring had been removed and that the USMS was scheduling Defendant Meggs for transportation from Florida to Washington, D.C., within the Justice Prisoner Transportation System (JPATS).

For this reason, there has not been a significant change to the factual findings that underpinned Magistrate Judge Lammens’ detention order, and the Court should deny Defendant Meggs’s “renewed request.”

b. Basis for Detention

i. Defendant Meggs’s Actions on January 6

Defendant Meggs’s renewed request for pretrial release fails to recognize that there is a rebuttable presumption in favor of Defendant Meggs’s detention, pursuant to 18 U.S.C. § 3142(e)(3)(C). A felony charge of destroying government property under 18 U.S.C. § 1361 is an offense listed in 18 U.S.C. § 2332b(g)(5)(B) and is punishable by a term of imprisonment of up to 10 years, which falls within the statutory requirement that the predicate offense provide for punishment of “10 or more years.” Because the grand jury found probable cause that the defendant committed a felony violation of Section 1361, the rebuttable presumption applies here.

Judge Lammens found that the presumption applied – and that it was not rebutted. This Court should not disturb that ruling.

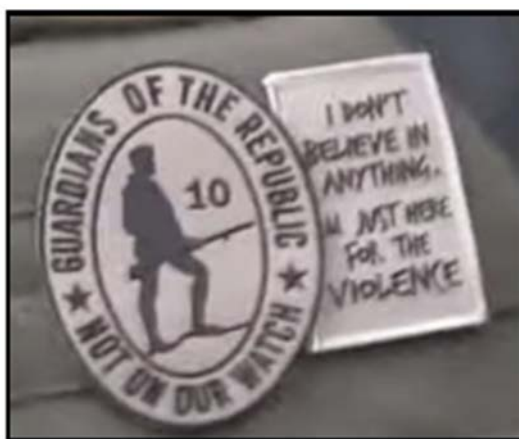
Even if the Court were to reach the merits of Judge Lammens’ detention decision, Defendant Meggs has not proffered facts to rebut the presumption of detention, and the factors in Section 3142(g) still favor Defendant Meggs’s detention.³ None of the information presented in Defendant Meggs’s pleading negates that she conspired with others to stop Congress’ certification of the Electoral College vote, took steps to aid this conspiracy, and then participated in the storming of the Capitol itself.

Members of the stack of Oath Keepers – including Defendant Meggs – wearing matching uniforms consisting of camouflaged-combat attire, aggressively approached the east doors of the Capitol. These individuals, who are wearing helmets, reinforced vests, and clothing with Oath Keeper logos and insignia, can be seen moving in an organized and practiced fashion and forcing their way to the front of the crowd gathered around a set of doors:

³ Moreover, the indicted crime of a Section 1361 violation is an enumerated offense under Section 2332b(g)(5)(B) and the offense was clearly calculated to “influence or affect the conduct of government by intimidation or coercion” under Section 2332b(g)(5)(A). As such, the offense constitutes a federal crime of terrorism for purposes of evaluating the “nature and circumstances of the offense charged” under Section 3142(g)(1).



A close-up view of the badges on the vest of one of these individuals, seen just under the Oath Keepers emblem on his shirt, displays the Oath Keepers motto, “Not On Our Watch.” The badge also says, “I don’t believe in anything. I’m just here for the violence.”



Then, Defendant Meggs, as part of the stack, and with seven of her current co-defendants, rushed through the Capitol doors and past a police officer trying to keep the crowd at bay:



Defendant Meggs is a member of the Oath Keepers. Her MeWe account contains a photo of her wearing an Oath Keepers hat (next to her husband and co-defendant Kelly Meggs wearing an Oath Keepers shirt):



Kelly Meggs proclaimed on Facebook on December 25, 2020, that he was named “State lead” (presumably of the Oath Keepers):

Author Kelly Meggs (Facebook: 1517304829)
Sent 2020-12-25 00:40:00 UTC
Body I was named State lead of Florida today .

Financial records show that, five months earlier, Kelly Meggs purchased a “lifetime membership with spouse” to the Oath Keepers:

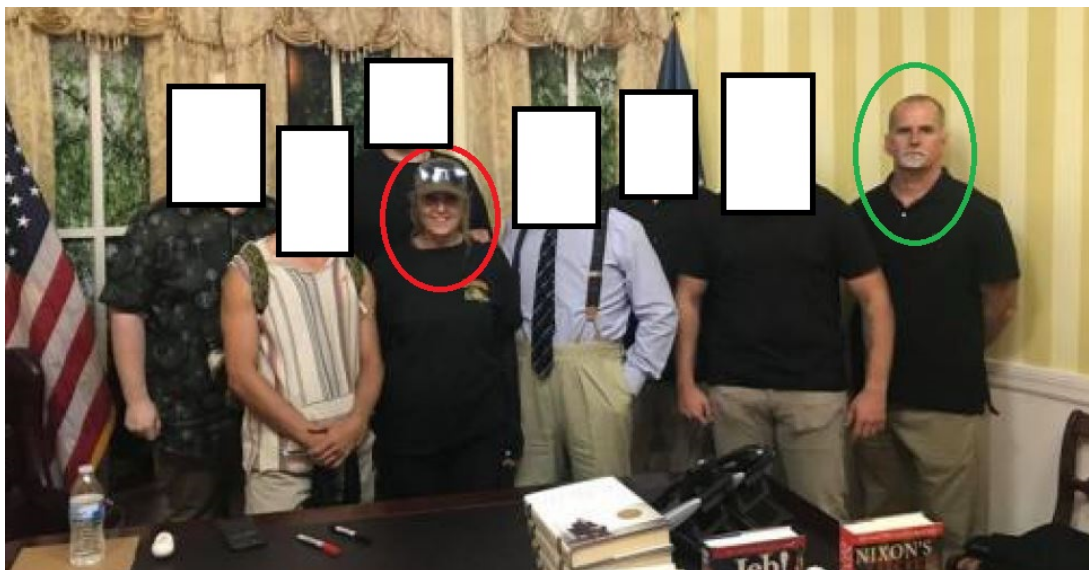
| | | | | | | | |
|------|------------|--|-------------|--------------|-------------------------|------|--------|
| 1610 | ch_OH0dRR2 | US | acct_1VFW2v | Oath Keepers | 2020-07-03T01:11:49.66Z | TRUE | 85 usd |
| 1610 | null | User ID: 11208 - User Email: Kellymeggs@yahoo.com Subscription: Lifetime Membership with Spouse - Subscription | | | | | |

In her custodial interview, Defendant Meggs initially said “I am not an Oath Keeper.” But then when asked, “So you’re not a member,” she replied in part, “I guess I was an Oath Keeper in spirit.”

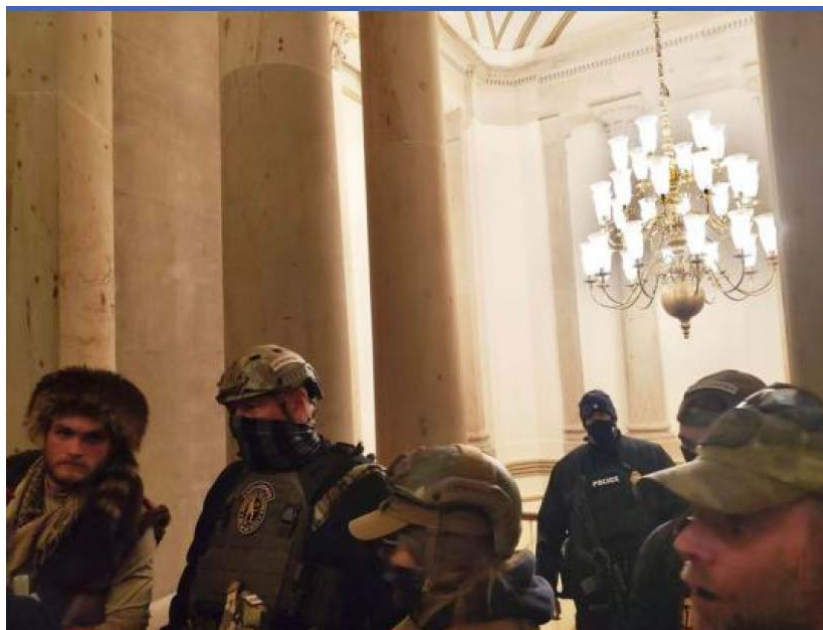
During her interview, she also said she only knew people in the Oath Keepers by their nicknames, and “I don’t even know what my husband’s nickname, what he goes by. I really don’t.” That statement strains credulity. According to an email message sent from co-defendant Graydon Young shortly after the storming of the Capitol, Kelly Meggs – aka “Gator 1” – was the “team leader” during the operation. And Kelly Meggs used the name “Gator” in both his email address and in Go To Meeting chat sessions used by Oath Keeper members to plan the attack. Kelly Meggs even admitted in his own custodial interview that he went by “Gator.” If other members of the stack regularly and openly called Kelly Meggs “Gator 1,” how could Defendant Meggs not know her husband’s moniker?

And Defendant Meggs obviously was acquainted with other members of the Oath Keepers group who stormed the Capitol with her on January 6; the photo below, which was shared on

Facebook on December 15, 2020, shows Defendant Meggs (red oval) posing at a book signing with several other individuals, including co-defendant Graydon Young (green oval):



On January 14, 2021, Kelly Meggs sent the following photo to another person on Facebook:



The photo shows Defendant Meggs, along with co-defendants Kelly Meggs and Kenneth Harrelson, inside the Capitol on January 6. Kelly Meggs then had this exchange with the recipient of the photo, about how his wife – Defendant Meggs – “wouldn’t have missed it for the world”:

Author Kelly Meggs (Facebook: 1517304829)
Sent 2021-01-14 03:51:29 UTC
Body That officer was
Down we saved him . They surrounded him and he was aiming at
them . We stopped it . That’s why we aren’t in jail

Author [REDACTED]
Sent 2021-01-14 03:54:18 UTC
Body The one outside on the steps?

Author [REDACTED]
Sent 2021-01-14 03:54:48 UTC
Body Who was “they”. For real!? I’m assuming a little bit of both.

Author Kelly Meggs (Facebook: 1517304829)
Sent 2021-01-14 04:00:40 UTC
Body We went in and were a little in awe then we saw the trouble , he
was surrounded by both trumpers and bad people . We just
stopped it from escalating which was eminent

Author [REDACTED]
Sent 2021-01-14 04:05:27 UTC

Body
Good for you Kelly. I knew you would get in there. But don’t leave a
woman hanging. Lol. Did your wife go? Where was she?

Author Kelly Meggs (Facebook: 1517304829)
Sent 2021-01-14 04:05:44 UTC
Body To my left

Author Kelly Meggs (Facebook: 1517304829)
Sent 2021-01-14 04:05:56 UTC
Body She wouldn’t have missed it for the world

According to a review of Defendant Meggs’s cell phone, on January 19, 2021, she sent a text to another individual with a link to a Washington Post article about some of her co-defendants being arrested for participating the attack on the Capitol on January 6. Accompanying the article, Defendant Meggs wrote: “Don’t even know these people wtf what police line.”

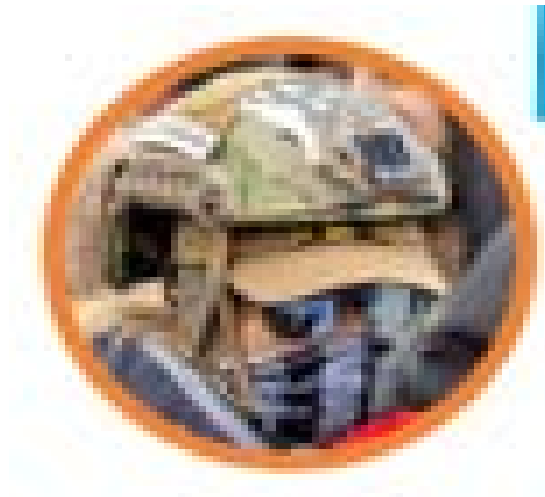
But Defendant Meggs does “know” these people. On their way to Washington, D.C., by her own admission during her custodial interview, she and her husband stayed at a property in North Carolina belonging to another member of the Oath Keepers. Then she and her husband stayed at a hotel in Washington, D.C., with several other members – her husband paid for two room at the hotel, with two different credit cards, suggesting that Defendant Meggs was aware of at least the other individuals’ presence if not the Meggs family’s financing of others’ lodging.⁴

And on January 6, Connie Meggs spent the day with the other people with whom she stormed the Capitol: she was photographed at the Ellipse with other members of the conspiracy. In the below photo, Defendant Meggs is indicated with the blue arrow, while co-defendant Crowl is circled in blue:

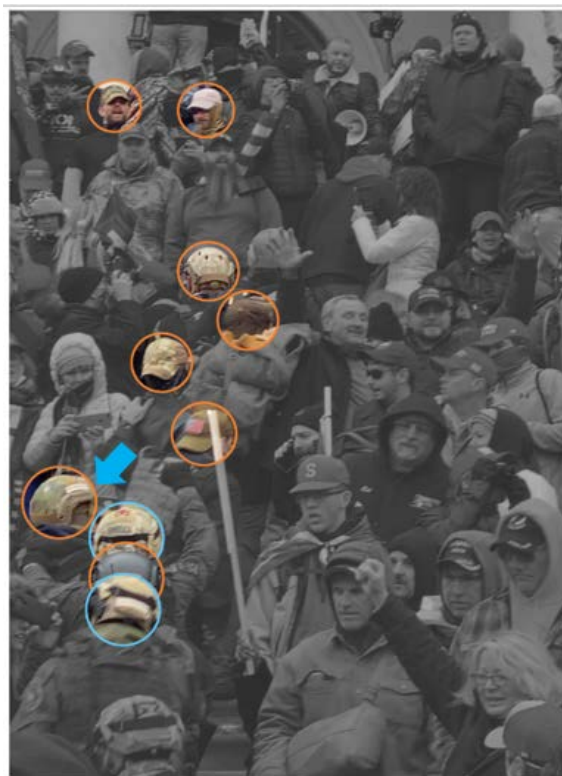


⁴ Kelly Meggs also paid for yet another Oath Keepers member’s room at a hotel in Arlington.

And Defendant Meggs – like several of her co-defendants – prepared herself for battle. While she was wearing a baseball cap earlier in the day, before entering the Capitol she donned a hard tactical helmet:



The blue arrow shows Defendant Meggs climbing the east side stairs of the Capitol as part of the stack of Oath Keepers – many of whom, like Defendant Meggs – were wearing helmets:



Several members of the stack – as well as other members of the Oath Keepers – participated in a Signal chat titled “DC OP: Jan 6 21.” The chat shows that the participants were activating a plan to use force on January 6. At approximately 1:38 p.m., Person One wrote, “All I see is Trump doing is complaining. I see no intent by him to do anything. So the patriots are taking it into their own hands. They’ve had enough.” At 2:14 p.m., an individual leading the coordination of the security details run by the Oath Keepers on January 5-6 stated, “The have taken ground at the capital[.] We need to regroup any members who are not on mission.” Person One then reposts that message and instructs the group: “Come to South Side of Capitol on steps” and then sends a photograph showing the southeast side of the Capitol. At 2:41 p.m., Person One posts another photograph showing the southeast side of the Capitol with the caption, “South side of US Capitol. Patriots pounding on doors[.]” At approximately 2:40 p.m., the individuals in the “stack,” to include Defendant Meggs and her co-defendants Kelly Meggs, Jessica Watkins, Graydon Young, Laura Steele, Donovan Crowl, and Sandra Parker, forcibly entered the Capitol through the Rotunda door in the center of the east side of the building.

Publicly available photographs and video show someone consistent in appearance with Person One on the east side of the Capitol on the afternoon of January 6, 2021, after the Capitol was breached. At one point, around 4:00 p.m., a large group – that included Defendant Meggs and co-defendants Kelly Meggs, Graydon Young, Laura Steele, other members of the stack, and other individuals wearing “Oath Keepers” clothing and insignia who stormed the Capitol – gathered around Person One and stood around waiting for at least ten minutes in that location.

ii. Defendant Meggs’s Actions After January 6

When the FBI searched Defendant Meggs’s residence on February 17, 2021, the FBI located more than three firearms. And Defendant Meggs herself admitted during her custodial

interview that she participated in a firearms training class with her husband and others to prepare to be “security” at the rallies and events planned in Washington, D.C., for January 5-6, 2021.

The FBI also seized and searched Defendant Meggs’s cell phone (an iPhone). The records show that Defendant Meggs was both involved in planning the Oath Keepers’ actions on January 6 and deleted records from her phone after January 6. On January 3, the user of Defendant Meggs’s phone saved a “note” with apparent locations, actions, and contacts for January 5 and 6 in Washington, D.C.:



Title: 5th
Summary: 1 on freedom plaza
Source: Notes
Labels:
Body: 5th
1 on freedom plaza

Then 6th ellipse
Then US Capitol

Congressman

Finalized agenda
[REDACTED] @ Gmail.com



Vip registration desk
Stop the steal
[REDACTED] @stopthesteal.us

[REDACTED] to save America

Our RP for meeting

We have VIP detail on Tuesday .
Small detail
Parties:
Source file:
Connie's
iPhone/mobile/Containers/Shared/AppGroup/grou

And records show that the user deleted all text messages that were sent or received during the period January 1 to 6, 2021 (indicated by the red “YES” in the “deleted” column on the far right):

| 22 | Instant Messages | Deleted message from Jan 8th. | | Important | 3/17/2021 5:02:51 PM | 3/17/2021 5:02:51 PM | | | | | | | | |
|-----------------|------------------|-------------------------------|--|--|----------------------|----------------------|-----------|------|--------|------------|--|--|--|-----|
| Source | From | To | All timestamps | Content | | Deleted | | | | | | | | |
| Native Messages | | [REDACTED] | Timestamp: 1/6/2021 1:14:35 AM(UTC+0) | Direction: Incoming Participants: <table border="1"> <thead> <tr> <th>Participant</th> <th>Delivered</th> <th>Read</th> <th>Played</th> </tr> </thead> <tbody> <tr> <td>[REDACTED]</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> Attachments:  IMG_4191.PNG Avar/1mp/0om.apple.messages/bom.apple.MobileSMS/Media/0180292-F506C-430A-B2B7-1407093DC4FF/IMG_4191.PNG Source file: Connie's iPhone/mobile/Library/SMS/sms.db : 0x6E17BE (Table: attachment, chat, Size: 7569408 bytes) Message Type: App Message | | Participant | Delivered | Read | Played | [REDACTED] | | | | Yes |
| Participant | Delivered | Read | Played | | | | | | | | | | | |
| [REDACTED] | | | | | | | | | | | | | | |
| 23 | Instant Messages | Deleted message from Jan 8th. | | Important | 3/17/2021 5:03:15 PM | 3/17/2021 5:03:15 PM | | | | | | | | |
| Source | From | To | All timestamps | Content | | Deleted | | | | | | | | |
| Native Messages | | [REDACTED] | Timestamp: 1/6/2021 12:03:35 AM(UTC+0) | Direction: Incoming Participants: <table border="1"> <thead> <tr> <th>Participant</th> <th>Delivered</th> <th>Read</th> <th>Played</th> </tr> </thead> <tbody> <tr> <td>[REDACTED]</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> Attachments:  FullSizeRender.jpg Avar/1mp/0om.apple.messages/bom.apple.MobileSMS/Media/009BF4A-D006C-490F-869F-EF47B2B15540/FullSizeRender.jp Source file: Connie's iPhone/mobile/Library/SMS/sms.db : 0x6E18B1 (Table: attachment, chat, Size: 7569408 bytes) Message Type: App Message | | Participant | Delivered | Read | Played | [REDACTED] | | | | Yes |
| Participant | Delivered | Read | Played | | | | | | | | | | | |
| [REDACTED] | | | | | | | | | | | | | | |

IV. CONCLUSION

For all these reasons, the government submits that Defendant Meggs has not presented information that constitutes a significant change in the law or facts since Judge Lammens ordered her detained. Defendant Meggs has also not rebutted the presumption under Section 3142(e)(3)(C) that there are conditions that will reasonably assure the safety of the community.

Defendant’s “renewed request for pretrial release” should therefore be denied.

Respectfully submitted,

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