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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
MATTHEW E. LOGANBILL,  
  
Defendant.

Criminal Action  
No. 1: 21-593  
  
Washington, DC  
July 14, 2023  
  
10:07 a.m.

TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE AMY BERMAN JACKSON  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Douglas Spencer Meisel  
DOJ-CRM  
Narcotic & Dangerous Drug Section  
145 N Street NE  
Suite 2300  
Washington, DC 20530

For the Defendant: Elizabeth Ann Mullin  
FEDERAL PUBLIC DEFENDER FOR THE  
DISTRICT OF COLUMBIA  
625 Indiana Ave, NW  
Suite 500  
Washington, DC 20004

Court Reporter: SHERRY LINDSAY  
Official Court Reporter  
U.S. District & Bankruptcy Courts  
333 Constitution Avenue, NW  
Room 6710  
Washington, DC 20001

P R O C E E D I N G S

1  
2 THE COURTROOM DEPUTY: This is criminal case number  
3 21-593, the United States of America v. Matthew Eugene  
4 Loganbill. Mr. Loganbill is appearing by video.

5 Will counsel for the government please identify  
6 himself for the record?

7 MR. MEISEL: Doug Meisel for the United States. Good  
8 morning, Your Honor.

9 MS. MULLIN: Good morning, Your Honor --

10 THE COURTROOM DEPUTY: Mr. Meisel, you are going to  
11 need to get closer to your microphone.

12 MS. MULLIN: Good morning, Your Honor. Elizabeth  
13 Mullin on behalf of Mr. Loganbill, who is present on the video.

14 THE COURTROOM DEPUTY: Mr. Loganbill, will you please  
15 state your name for the record and verify that you are able to  
16 both see and hear the judge and the two attorneys?

17 THE DEFENDANT: Matt Loganbill. Yes, I can see and  
18 hear everyone present.

19 THE COURT: All right. Good morning, Mr. Loganbill.  
20 This is a felony case. So for any stages of your case, such as  
21 a plea or a sentencing or a trial, an evidentiary hearing, you  
22 would have to be physically present now because the CARES Act  
23 is no longer permitting us to do it by video. But for a status  
24 conference like this, to talk about dates, it is permissible  
25 for you to waive your constitutional right to be here in person

1 and to agree to proceed by video. Is it your -- do you agree  
2 to proceed by video this morning so that you don't have to  
3 travel here for this proceeding?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: All right. I find that it is  
6 appropriate, given the nature of this hearing, for it to be  
7 conducted by video conference, given the defendant's consent.

8 We set this case down for a status conference now  
9 that the motions have been denied. But a new motion to dismiss  
10 was filed on July 10th with respect to the Speedy Trial Act.  
11 The government gets an opportunity to respond. And I am not  
12 going to rule on the motion today because they have not yet  
13 filed its response. But I believe and I am interested in the  
14 parties' position, but I am pretty sure this is the case, that  
15 the filing of the dispositive motion notwithstanding the fact  
16 that the motion is grounded in the Speedy Trial Act itself has  
17 stopped the clock again.

18 Do you agree with that, Ms. Mullin?

19 MS. MULLIN: Yes, Your Honor. Although, our position  
20 as stated in the motion is that the 70 days is up.

21 THE COURT: I understand that. But if it is not, you  
22 have now stopped the clock; is that correct?

23 MS. MULLIN: Yes, Your Honor.

24 THE COURT: Okay. Now, the defendant was arrested in  
25 this case on March 21st of 2021. The Speedy Trial Act time was

1 excluded with his consent at every status conference through  
2 the filing of the motion to dismiss. And Speedy Trial wasn't  
3 raised as a matter of concern previously. There was a lot of  
4 going back and forth regarding a potential plea. I am still  
5 not sure, frankly, that I understand the government's position  
6 about insisting on a plea to the obstruction of justice charge,  
7 given the challenges involved in the particular elements of  
8 that charge and the variations in culpability of various  
9 defendants, some of whom were more destructive, belligerent or  
10 assaultive or involved in exhorting others inside than others.  
11 And it is not clear that this defendant falls within that  
12 category notwithstanding the nature and tone of his rhetoric  
13 before and after January 6.

14 At any rate, I don't get to decide that. And as of  
15 October 28th, the parties were at an impasse. So we finally  
16 set a motions schedule. The defendant asked until January 6th  
17 to file the motion, a fair amount of time. And then the clock  
18 was stopped with the motion for change of venue, motion to  
19 dismiss Count 1 and separate motion to dismiss Counts 2 and 3.  
20 The venue motion was decided in April. The motion to dismiss  
21 was decided on May 1st. And there is no question there was a  
22 delay, notwithstanding the fact counsel were plainly notified  
23 of the ruling. There was a delay in reaching out to schedule  
24 the next status conference. And for that, the Court takes full  
25 responsibility.

1 I understand that the Speedy Trial Act isn't  
2 necessarily interested in what TROs, criminal matters,  
3 incarcerated defendants and other things were in the Court's  
4 lap at that time and what my staff and I were up to. But I do  
5 note that neither the prosecutor nor the defense attorney  
6 reached out and contacted the Court or the courtroom deputy to  
7 say, when are we coming back? I also note that I would have  
8 been out of the country and unavailable between May 22nd and  
9 June 2nd. There was a judicial conference from June 27th to  
10 30th. Putting aside for the minute, because I don't know and I  
11 am not determining whether any of those circumstances matter  
12 for purposes of the motion, an email did go to counsel on  
13 June 29th. Our courtroom deputy had already spoken with  
14 Mr. Meisel on the 28th in connection with another scheduling  
15 matter and learned he had military commitments for the weeks of  
16 July 10th, 17th and 24th. But he could participate in status  
17 conferences on July 14th, 18th and 27th.

18 The deputy clerk sent an email which was responded to  
19 by defense counsel on June 29th at 8:16 a.m. who said, "Good  
20 afternoon, Mr. Haley, I am out of town and not available until  
21 July 6 or after. What week was the Court thinking of?" Speedy  
22 Trial Act didn't come up. She was advised of the government's  
23 conflicts and said she could be available on certain hours on  
24 the 18th or 14th and we selected the 14th. So here we are.

25 And then the defense said nothing about the Speedy

1 Trial Act until July 10th, exactly 70 days from my ruling on  
2 the motion. As I said, I am not ruling right now whether any  
3 of that matters for the purpose of the Speedy Trial Act, which  
4 is now stopped. But I don't believe that it would be  
5 appropriate for the 7 days between June 29th and July 6th to  
6 count, given the defendant's counsel's unavailability even for  
7 a status conference between those dates. And that would make  
8 the 70 days expire next Monday, the 17th, and not on the 10th.  
9 And I don't even know at this point how long the defense may  
10 have been unavailable before June 28th. But we know that as of  
11 June 29th she said, she was unavailable until July 6th. Nor do  
12 I think we could count the four days between the 10th and the  
13 14th, given government counsel's military duty and  
14 unavailability. So I think there is an argument, which I  
15 haven't looked into yet, that we are looking at July 20th as  
16 the day the Speedy Trial Act would have expired if none of the  
17 other circumstances before the Court in between counted. But I  
18 think it expired at the earliest on the 17th.

19 So what I believe we need to do while we consider the  
20 motions is set a trial date if the defendant wants one. And if  
21 the motion to dismiss is granted, then the motion to dismiss is  
22 granted and there is not going to be a trial. But in the  
23 meantime, if the motion to dismiss is denied, we should know  
24 when he can go to trial. I could conduct a bench trial next  
25 week, but I don't believe we could get a jury here by next

1 week. I don't know if he wants a bench trial or if he wants a  
2 jury trial. Defendants in this courthouse, the January 6th  
3 matters, are winning some counts and losing some counts under  
4 both scenarios. So he needs to think about that. But if he  
5 wants this case to move, we are going to move it. I can try it  
6 on August 21st. And that would require the parties to be ready  
7 for a pretrial conference on August 14th or 15th, pretrial  
8 statement with the voir dire, jury instructions and exhibits  
9 due the week before that and any motions in limine briefed  
10 before that. Is the defense ready to do that?

11 MS. MULLIN: Yes, Your Honor.

12 THE COURT: All right. Mr. --

13 MS. MULLIN: With the exception that I haven't spoken  
14 to Mr. Loganbill about jury trial versus bench trial.

15 THE COURT: That would open up an entirely different  
16 scheduling scenario, because bench trials take, as you can  
17 imagine, much less time. We don't have to spend a day or two  
18 picking a jury. And we can usually sit longer without as many  
19 breaks. And I can also fit other matters in between in ways I  
20 can't if I have a jury waiting. I have I think personally done  
21 two January 6 bench trials. And I think the defense could  
22 easily determine by doing its own research, it is not for me to  
23 tell you how that worked out for the defendants. But I can say  
24 that both cases were mixed verdicts in terms of convictions and  
25 acquittals on certain counts.

1 MS. MULLIN: I understand, Your Honor. I could  
2 actually -- if I could, I could speak to Mr. Loganbill in a  
3 breakout room, because I think we could make this decision  
4 fairly quickly. And then we would know with regard to  
5 scheduling. And I will just tell the Court, I am available to  
6 try this case whenever the Court needs me to be available. I  
7 understand that I am the one who raised Speedy Trial. I  
8 just -- I do have concerns because Mr. Loganbill lives in  
9 Missouri. So I would need to make sure that he can get here.

10 THE COURT: And you need to talk to him about that.  
11 Because as I understand it, he has to be here. We can't do a  
12 Zoom trial anymore. The CARES Act has expired. If there were  
13 a felony plea, we couldn't do that either. If there were a  
14 plea to multiple misdemeanors, we could do that by video. So I  
15 am happy to create a breakout room and let the two of you talk.  
16 But these are important decisions. If you decide that is not  
17 sufficient opportunity, you are welcome to come back and say  
18 you need more time to consider that question.

19 So, Mr. Haley, it takes a minute for you both to get  
20 the notifications and then click yes. But we'll do that.

21 And then, Mr. Meisel, I realize you haven't had a  
22 chance to say anything yet. And you will have a chance to  
23 speak at some point. Let's let them go do that first.

24 MS. MULLIN: With regard to scheduling, Your Honor,  
25 if it is going to be a bench trial, I still would like the



1 opportunity for the Court to rule on, obviously, my motion to  
2 dismiss. So I don't know if the Court would be able to rule  
3 next week, since the government hasn't had a full opportunity  
4 to respond yet. So I wouldn't want to race into a trial  
5 without having a ruling on my motion.

6 THE COURT: If we set it down -- I think we are  
7 putting the cart before the horse. But if he decides he wants  
8 a bench trial I don't know why we couldn't set it at the time I  
9 rule on the motion. Because I don't need as much notice to  
10 schedule a bench trial. Let's find out -- I think you two need  
11 to talk to each other first. I think if we do the late in  
12 August -- the later in August date, we might well know before  
13 that. But I don't know if we would know before the time that  
14 you need to do all of the work to get ready. So let's do the  
15 breakout room first. And then we'll talk again when you come  
16 back.

17 Mr. Haley, thank you.

18 MS. MULLIN: Thank you.

19 (Pause.)

20 MS. MULLIN: Your Honor, we are ready to return.

21 THE COURT: Let me wait until we see your client. It  
22 takes a while for everybody to get back.

23 All right. Thank you. All right. Ms. Mullin, have  
24 you two had enough time to discuss the issue you wanted to  
25 discuss?

1 MS. MULLIN: Yes, Your Honor. And he will be waiving  
2 his right to a jury trial. I explained to him he has a  
3 constitutional right to a jury trial. He has been thinking  
4 about this for some time now. And we have discussed it briefly  
5 in the past. At this time, he is prepared to waive his right  
6 to a jury trial. We would want to set it down for a bench  
7 trial. With respect to scheduling, as the Court -- as I  
8 stated, I am available, but Mr. Loganbill lives in Missouri.  
9 He works. So the earliest he would be able to get here for a  
10 trial would be July 24th.

11 And I will let the Court know that I am not available  
12 the afternoon of July 28th. I don't think the bench trial  
13 would go that long. And Mr. Loganbill is also available to  
14 come the week of July 31st.

15 THE COURT: Well --

16 MS. MULLIN: I also -- you know, we can also set it  
17 in August.

18 THE COURT: Yes. Because you had said that you  
19 wanted to get the motion to dismiss ruled on.

20 MS. MULLIN: Yes, Your Honor.

21 THE COURT: Now, the local rules ordinarily would  
22 give Mr. Meisel two weeks to respond, which only hasn't even --  
23 we haven't gotten to a week yet. A week would be Monday. When  
24 do you anticipate filing your opposition to the motion,  
25 Mr. Meisel?

1 MR. MEISEL: I can have it filed by late next week,  
2 Your Honor.

3 THE COURT: I'm sorry. I can't really catch what you  
4 are saying. You are not close enough to your microphone.

5 MR. MEISEL: I can have it filed by late next week.

6 THE COURT: The end of next week. So that would be  
7 July 21st?

8 MR. MEISEL: Yes, Your Honor.

9 THE COURT: All right. And defense is certainly  
10 entitled to file a reply. And I don't think -- do you want  
11 until the 28th or do you think you can file it sooner?

12 MS. MULLIN: I can file the reply by July 26th, if I  
13 have a reply.

14 THE COURT: Obviously, you don't need to repeat  
15 anything that was in the motion.

16 MS. MULLIN: Yes, Your Honor.

17 THE COURT: But assuming I have it in hand on the  
18 26th, I think that makes the July weeks when the defendant  
19 could be here for trial a little tight. And what I would  
20 propose that we do, given the fact that I do need to see,  
21 notwithstanding that fact there is no jury, jury instructions  
22 that would reflect what you both believe the law is that  
23 governs these cases. And I can certainly provide the parties  
24 with the instructions that I have used in these cases already.  
25 And that is also all in the docket. We need to have a pretrial

1 conference. We need to rule on the exhibits. And you want me  
2 to rule on the motion. So I would still propose to try this  
3 case as a bench trial on August 21st.

4 MS. MULLIN: That is fine, Your Honor.

5 MR. MEISEL: That is fine, Your Honor.

6 MS. MULLIN: I have a status hearing that morning at  
7 10:30. But given that it is a bench trial, you know, I can  
8 probably get that covered.

9 THE COURT: Okay. Well, I mean, I can either set  
10 this for 9:30 on the 21st or I can set it for after your status  
11 conference. But I think if you can get somebody to cover that,  
12 then I would set it for 9:30 on the morning on the 21st.

13 Now, Mr. Meisel, in terms of you and your witnesses,  
14 can you do that?

15 MR. MEISEL: Obviously, I have not had an opportunity  
16 to assess whether or not I can get witnesses available for the  
17 21st, but I think I can make it happen.

18 THE COURT: All right. I am going to set it down for  
19 the 21st then at 9:30 in the morning as a bench trial. And if  
20 the government needs to move to continue that date because of  
21 the unavailability of a critical witness, it will do so. And  
22 then we could have a pretrial conference on the 15th or 16th or  
23 the afternoon of the 14th. Do any of those work? And that I  
24 would permit Mr. Loganbill to participate by video. Though I  
25 think it would be most helpful to have counsel here in person,

1 unless, Ms. Mullin, you and he would prefer that he is seated  
2 with you.

3 MS. MULLIN: Your Honor, if the Court wants counsel  
4 in person, which makes sense, could we have it the week before?  
5 I will be out of the jurisdiction. I could appear by video the  
6 week of August 14th.

7 THE COURT: You want it the week before the 14th?

8 MS. MULLIN: Yes, Your Honor.

9 THE COURT: I have a trial with an incarcerated  
10 defendant that is older than this trial the week of the 7th.  
11 And the only time I think I could possibly do it then would be  
12 the afternoon of the 11th.

13 MS. MULLIN: That is fine, Your Honor.

14 MR. MEISEL: I am not available.

15 THE COURT: All right. Well, actually I haven't even  
16 looked into the fact into whether -- does anybody know whether  
17 the rules would permit the defendant to waive his presence for  
18 a pretrial conference? We are only discussing legal issues.  
19 Generally, I can look at the rule that would suggest doing it  
20 perhaps the Friday before the trial. Though I don't know if I  
21 can do it then. No, I can't. I'm sorry. Did you say you were  
22 unavailable the entire week of the 14th, Ms. Mullin?

23 MS. MULLIN: Yes, for in person.

24 I wonder because it is a bench trial, perhaps we  
25 could have the pretrial conference on the 21st and start the

1 trial on the 22nd, since Mr. Loganbill will be here anyway for  
2 the trial? I know that is a short --

3 THE COURT: I think it is important to have it before  
4 we start, so that you know what evidence is in and what is not  
5 in. And if there are any legal issues to resolve, they are  
6 worth resolving at that time. I don't have a problem with  
7 proceeding in that fashion. And we could have the pretrial  
8 conference at 11:00 a.m. on the 21st and start taking testimony  
9 on the 22nd. And that is what we'll do.

10 MS. MULLIN: Thank you, Your Honor.

11 THE COURT: And then I do need the joint pretrial  
12 statement, which will be somewhat truncated, since we don't  
13 need voir dire, but it will still have elements in it that are  
14 required. But I want that filed by the 11th. I think that  
15 gives us time to rule on the motion to dismiss in the interim  
16 and for you all to do what is necessary with respect to the  
17 getting ready for trial. And the scheduling order I issue will  
18 have a schedule for -- that may be somewhat shortened from the  
19 usual amount of time for motions in limine, if you anticipate  
20 any.

21 Mr. Meisel, are you aware of any 404(b) evidence or  
22 impeachable or convictions or anything like that that you might  
23 be utilizing in this case?

24 MR. MEISEL: No, Your Honor.

25 THE COURT: Okay. So we don't have to deal with that

1 in motions.

2 All right. I think we have a plan for moving forward  
3 at this point. And I will require a written waiver of the  
4 right to trial by jury. And I know you don't have it right  
5 now, but I need to have that docketed.

6 MS. MULLIN: I will get that to Mr. Loganbill today.

7 THE COURT: Is there anything else I need to take up  
8 right now on behalf of Mr. Loganbill?

9 MS. MULLIN: No, Your Honor.

10 THE COURT: All right. Mr. Meisel, anything further  
11 from your perspective?

12 MR. MEISEL: No, Your Honor.

13 THE COURT: All right.

14 MS. MULLIN: Your Honor, I would just say if the  
15 government would reconsider its position, we could resolve this  
16 case next week in the way that Mr. Loganbill has long wanted to  
17 resolve it and which I think is consistent with the evidence  
18 but --

19 THE COURT: Well, I think -- as I understand it, that  
20 position had been taken up the chain. I think there were  
21 circumstances now that are somewhat different that may make it  
22 worth taking up one more time. And we'll see what happens. I  
23 think the government position in a number of these cases has  
24 made sense. I think sometimes more flexibility would be  
25 beneficial. But I know they are looking at them as a whole and

1 I am just looking at the ones before me. And but it is  
2 certainly my belief that it is never too late to be flexible  
3 and for the parties to try to come to a resolution that meets  
4 both sides' interests. Whatever I do with respect to the  
5 Speedy Trial Act, if I rule in favor of the government, I  
6 expect the defense will appeal it. So that is an aspect of  
7 things that we didn't have in front of us before.

8 So you all can talk to each other, but I am not the  
9 arbiter of this particular conversation. All right. Thank  
10 you, everybody.

11 MS. MULLIN: Thank you, Your Honor.

12 MR. MEISEL: Thank you.

13 (Proceedings concluded at 10:39 a.m.)  
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C E R T I F I C A T E

I, SHERRY LINDSAY, Official Court Reporter, certify that the foregoing constitutes a true and correct transcript of the record of proceedings in the above-entitled matter.

Dated this 17th day of July, 2023.



Sherry Lindsay, RPR  
Official Court Reporter