

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

* * * * *
UNITED STATES OF AMERICA *
vs. * Case No. 8:21-cr-348
JEREMY BROWN * April 20, 2022
* * * * *

REPORTER'S OFFICIAL TRANSCRIPT
OF THE STATUS CONFERENCE HELD
BEFORE THE HONORABLE SUSAN C. BUCKLEW
UNITED STATES DISTRICT JUDGE
APRIL 20, 2022

APPEARANCES:

FOR THE GOVERNMENT:

Risha Asokan
Daniel J. Marcet
DOJ - USAO
400 N. Tampa Street, Suite 3200
Tampa, FL 33602
813.274.6000

Official Court Reporter: Tana J. Hess, CRR, FCRR, RMR
U.S. District Court Reporter
Middle District of Florida
Tampa Division
801 N. Florida Avenue
2nd Floor
Tampa, FL 33602
813.301.5207
tana_hess@fld.uscourts.gov

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Tana J. Hess, CRR, RMR, FCRR
U.S. District Court Reporter
Middle District of Florida

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APPEARANCES (Continued):

FOR THE DEFENDANT:

William Fargo Sansone
Sansone Law PA
609 W. De Leon Street
Tampa, FL 33606
813.361.0874

Roger Futerman
Roger D. Futerman & Associates
13620 49th Street N, Suite 201
Clearwater, FL 33762
727.344.5511

8 : 3 5 A M 1 THE COURT: All right. Let me go back then and call
8 : 3 5 A M 2 21-348, United States of America versus Jeremy Brown.

8 : 3 5 A M 3 And if I could start with asking counsel to
8 : 3 5 A M 4 state their appearances, and I will start with counsel for the
8 : 3 5 A M 5 United States.

8 : 3 5 A M 6 MS. ASOKAN: Good morning, Your Honor. Risha Asokan
8 : 3 5 A M 7 for the United States as well as Daniel Marcet who's appeared
8 : 3 5 A M 8 as co-counsel.

8 : 3 5 A M 9 THE COURT: Okay.

8 : 3 5 A M 10 MR. MARCET: Good morning, Your Honor.

8 : 3 5 A M 11 THE COURT: Good morning, Mr. Marcet. The -- well,
8 : 3 5 A M 12 current counsel or CJA-appointed counsel, Mr. Sansone, would
8 : 3 5 A M 13 you state your appearance, please?

8 : 3 5 A M 14 MR. SANSONE: Yes, Your Honor. Bill Sansone on
8 : 3 5 A M 15 behalf of Mr. Jeremy Brown.

8 : 3 5 A M 16 THE COURT: Okay. And, Mr. Futerman, you have
8 : 3 5 A M 17 recently filed a notice of appearance in this case, so would
8 : 3 6 A M 18 you state your appearance, please?

8 : 3 6 A M 19 MR. FUTERMAN: Good morning, Your Honor. Roger
8 : 3 6 A M 20 Futerman on behalf of Mr. Brown.

8 : 3 6 A M 21 THE COURT: Okay. Let me go out and pull the motions
8 : 3 6 A M 22 that I need to look at, and then I have a number of questions,
8 : 3 6 A M 23 I believe.

8 : 3 6 A M 24 Okay. Let me just ask the question that the
8 : 3 6 A M 25 Government -- well, I should say the Government since we were

8 : 3 7 A M 1 here last has filed a Superseding Indictment, and that
8 : 3 7 A M 2 Indictment was filed -- the Superseding Indictment was filed on
8 : 3 7 A M 3 April the 12th, and as the Government had indicated earlier,
8 : 3 7 A M 4 they added certain counts, and those counts are Counts 6
8 : 3 7 A M 5 through 9, all having to do with the possession of classified
8 : 3 7 A M 6 information. And I believe the security clearance on that
8 : 3 7 A M 7 classified information is secret, and we'll need to discuss
8 : 3 7 A M 8 that in a moment.

8 : 3 7 A M 9 But let me just deal first with the two motions
8 : 3 7 A M 10 that I have here.

8 : 3 7 A M 11 Mr. Sansone, the first motion that was filed is
8 : 3 7 A M 12 on April the 17th. You filed a Motion to Conduct a Faretta
8 : 3 7 A M 13 Hearing, and in the motion, you said that Mr. Brown wishes to
8 : 3 8 A M 14 represent himself in this matter, and you asked the Court to
8 : 3 8 A M 15 schedule a Faretta hearing. The -- two days later,
8 : 3 8 A M 16 Mr. Futerman filed a Notice of Appearance or Motion to Allow --
8 : 3 8 A M 17 and a Motion to Allow Substitution of Counsel. So maybe you
8 : 3 8 A M 18 all have talked about this, but it sort of flies in the face of
8 : 3 8 A M 19 the other. He either wants to represent himself, or he's going
8 : 3 8 A M 20 to have counsel.

8 : 3 8 A M 21 So, Mr. Sansone, has Mr. Brown changed his mind?

8 : 3 8 A M 22 MR. SANSONE: Yes, Your Honor. I'll let you know a
8 : 3 8 A M 23 little bit of why that happened.

8 : 3 8 A M 24 As you know, I filed a Motion to Withdraw. That
8 : 3 8 A M 25 was denied, and understandably, and during that interim,

8 : 3 8 A M 1 Mr. Brown was starting to look for alternate private counsel.
8 : 3 8 A M 2 At the end of last week, he had not secured private counsel,
8 : 3 9 A M 3 and he had informed me that he was still going to try and
8 : 3 9 A M 4 secure private counsel, but in the interim actually thought it
8 : 3 9 A M 5 was in his best interests to represent himself. I actually
8 : 3 9 A M 6 knew that Mr. Brown was reaching out to Mr. Futerman, but I
8 : 3 9 A M 7 didn't know it was going to happen. So he -- Mr. Brown
8 : 3 9 A M 8 indicated to me in the interim before he hired counsel and he
8 : 3 9 A M 9 didn't know who was going to come on or when, he wanted to
8 : 3 9 A M 10 actually represent himself and instructed me to file a Motion
8 : 3 9 A M 11 for a Faretta Hearing.

8 : 3 9 A M 12 I actually was not surprised when Mr. Futerman
8 : 3 9 A M 13 entered a Notice of Appearance. I just didn't know it was
8 : 3 9 A M 14 going to happen. So based on my conversations with
8 : 3 9 A M 15 Mr. Brown -- and Mr. Futerman can also speak about this
8 : 3 9 A M 16 independently -- my position in talking with Mr. Brown is that
8 : 3 9 A M 17 the Motion for a Franks hearing would either be moot or just
8 : 3 9 A M 18 withdrawn.

8 : 3 9 A M 19 THE COURT: All right. Faretta hearing.

8 : 3 9 A M 20 MR. SANSONE: Yeah, Faretta hearing.

8 : 3 9 A M 21 THE COURT: Okay. Mr. Futerman, so you filed a
8 : 4 0 A M 22 Notice of Appearance, and you filed a Motion to Allow
8 : 4 0 A M 23 Substitution of Counsel, and so do you agree that this either
8 : 4 0 A M 24 makes this Motion to Conduct a Faretta Hearing moot, or does
8 : 4 0 A M 25 Mr. Brown wish to -- wish to withdraw this motion, or what is

8 : 4 0 A M 1 his position?

8 : 4 0 A M 2 MR. FUTERMAN: It does make it moot, Your Honor. I
8 : 4 0 A M 3 met him for about two and a half hours two days ago by video
8 : 4 0 A M 4 visitation, and then I have met him for about three hours in
8 : 4 0 A M 5 person yesterday. I discussed a number of issues and, of
8 : 4 0 A M 6 course, this issue, and he is comfortable with me representing
8 : 4 0 A M 7 him, and I think that that would make the motion, Faretta
8 : 4 0 A M 8 motion moot. I will tell you just as a side note, he did tell
8 : 4 0 A M 9 me that he has apparently filed a Faretta motion with his
8 : 4 0 A M 10 Washington attorney on the Washington case, just so the Court
8 : 4 0 A M 11 is aware, and I'll talk to that Washington attorney about it,
8 : 4 0 A M 12 because I think he's Court-appointed, but as to the Middle
8 : 4 0 A M 13 District, he is comfortable with me representing him, and I
8 : 4 1 A M 14 think that is a moot issue, Your Honor.

8 : 4 1 A M 15 THE COURT: Okay. Well, it makes me happy he has
8 : 4 1 A M 16 counsel to represent him, because these are now -- well, not
8 : 4 1 A M 17 that they weren't before, but they're serious charges, and he
8 : 4 1 A M 18 needs to have counsel representing him.

8 : 4 1 A M 19 So I will then -- if both of you are in
8 : 4 1 A M 20 agreement and Mr. Brown is in agreement -- you're representing
8 : 4 1 A M 21 to me that he is in agreement; is that correct, Mr. Futerman?

8 : 4 1 A M 22 MR. FUTERMAN: I am.

8 : 4 1 A M 23 THE COURT: I declare this a moot motion.

8 : 4 1 A M 24 MR. FUTERMAN: Yes, Your Honor. He is in complete
8 : 4 1 A M 25 agreement.

8 : 4 1 A M 1 MR. SANSONE: I agree with that, Your Honor. I agree
8 : 4 1 A M 2 with that, Your Honor.

8 : 4 1 A M 3 THE COURT: All right. Thank you, Mr. Sansone. Then
8 : 4 1 A M 4 I'll find the Motion for the Court to Conduct a Faretta Hearing
8 : 4 1 A M 5 is moot.

8 : 4 1 A M 6 All right. The next is Mr. Futerman has entered
8 : 4 1 A M 7 a Notice of Appearance, and then he has filed a Motion to Allow
8 : 4 1 A M 8 Substitution of Counsel. Mr. Sansone, do you have any response
8 : 4 1 A M 9 to that?

8 : 4 1 A M 10 MR. SANSONE: No, Your Honor, and --

8 : 4 1 A M 11 THE COURT: Let me rephrase that. Do you have any
8 : 4 2 A M 12 objections to that?

8 : 4 2 A M 13 MR. SANSONE: No, Your Honor. And just to let the
8 : 4 2 A M 14 Court know that I -- I knew this transition was going to happen
8 : 4 2 A M 15 in some way, shape, or form, which is fine. I've already
8 : 4 2 A M 16 spoken with Mr. Futerman about this case. He's a friend of
8 : 4 2 A M 17 mine. I am putting together -- we are going to work
8 : 4 2 A M 18 collaboratively on the transition. I am putting together
8 : 4 2 A M 19 everything he needs, including work that was in progress and
8 : 4 2 A M 20 done, but not even filed. He can take and do with that as he
8 : 4 2 A M 21 wishes. I'm getting him all discovery, my guideline
8 : 4 2 A M 22 calculations. Literally everything I have, I am putting
8 : 4 2 A M 23 together, and I also told Mr. Futerman if he needed -- because
8 : 4 2 A M 24 there were a lot of issues that were kind of off, kind of
8 : 4 2 A M 25 sidelined from the case, about the bond issue and the -- the

8 : 4 2 A M 1 go -- the contempt issue, I would be more than happy to talk to
8 : 4 2 A M 2 him about that. I have transcripts of all of that. I'm giving
8 : 4 2 A M 3 all of that to Mr. Futerman. So I just want to let the Court
8 : 4 3 A M 4 know that I think it will be a seamless transition.

8 : 4 3 A M 5 I did want to let the Court know also that I do
8 : 4 3 A M 6 not have any of the top secret document discovery to give to
8 : 4 3 A M 7 Mr. Futerman. My clearance -- I'm not sure where it was in the
8 : 4 3 A M 8 process, but it hadn't been finalized, so I just don't have
8 : 4 3 A M 9 that discovery to turn over. Everything else I am turning over
8 : 4 3 A M 10 and would expect to do so -- I'm going to hand deliver it to
8 : 4 3 A M 11 his office this week.

8 : 4 3 A M 12 THE COURT: Okay. All right. The Government -- let
8 : 4 3 A M 13 me ask the Government, do you have anything to say or any
8 : 4 3 A M 14 objections to my granting Mr. Futerman's Motion to Allow
8 : 4 3 A M 15 Substitution of Counsel?

8 : 4 3 A M 16 MS. ASOKAN: No, Your Honor.

8 : 4 3 A M 17 THE COURT: Okay. Mr. Futerman, if you get in this
8 : 4 3 A M 18 case, you're in this case.

8 : 4 3 A M 19 MR. FUTERMAN: I know. I'm in it.

8 : 4 4 A M 20 THE COURT: I fully anticipate -- or right now I do
8 : 4 4 A M 21 anyway -- this case going to trial. So you are in this case.
8 : 4 4 A M 22 It would take a lot for me to let you out. So --

8 : 4 4 A M 23 MR. FUTERMAN: I understood when I took it on, and
8 : 4 4 A M 24 that's why it took me a long time before I committed to it, and
8 : 4 4 A M 25 I had lengthy discussions with everyone involved, so I'm in it

1 to the end, and I understand that there are some -- there's a
2 lot of work ahead of me.

3 And I will tell the Court what I anticipate
4 filing -- although I'm just basing it on discussions, so I
5 don't have any evidence to look at -- is a Motion to Suppress
6 based on the search warrant. So that would be the first
7 threshold issue that I would be asking the Court to look at, so
8 maybe we don't get to trial, but I understand I'm in it to the
9 end.

10 THE COURT: Okay. Then I will grant your Motion to
11 Allow Substitution of Counsel.

12 Okay. Let me talk just a minute with counsel
13 for the United States about the Superseding Indictment. The
14 counts that I mentioned earlier that have been added as a
15 result of the -- of the Superseding Indictment are classified
16 as secret; not top secret, but secret. So tell me about the
17 security clearance necessary, if there is, for counsel, for my
18 staff, and so on. And I know it would be a process if it was
19 top secret. I'm not sure what the process is for secret
20 documents.

21 MS. ASOKAN: Yes, Your Honor. I spoke with the CISO
22 assigned to this district yesterday, Ms. Carli Rodriguez-Feo,
23 and I have a few things to let the Court know. So on the topic
24 of clearances, you're right, Your Honor. The classification
25 level is at secret. That's the highest level, but,

8 : 4 5 A M 1 nevertheless, there is still a clearance process that is
8 : 4 5 A M 2 similar, but not as extensive as obtaining a top secret
8 : 4 5 A M 3 clearance. So we are expecting sort of the routine processing
8 : 4 6 A M 4 time for this. Starting with the Court, last time the Court
8 : 4 6 A M 5 inquired who in the Court's chambers might need a clearance.
8 : 4 6 A M 6 It's our understanding that just the Court, one law clerk, and
8 : 4 6 A M 7 a court reporter would be sufficient for this type of case, and
8 : 4 6 A M 8 the CISO represented to us that she could expedite that process
8 : 4 6 A M 9 for the Court as well for the law clerk. I believe last time
8 : 4 6 A M 10 too the court reporter had indicated that she may already
8 : 4 6 A M 11 possess a clearance.

8 : 4 6 A M 12 THE COURT: That's good.

8 : 4 6 A M 13 MS. ASOKAN: That's something that the CISO would
8 : 4 6 A M 14 just have to look into to confirm that it's still, in fact,
8 : 4 6 A M 15 active, but it did not sound like from our conversations that
8 : 4 6 A M 16 as far as the Court's concerned and the clearances that would
8 : 4 6 A M 17 be necessary, that that would contribute to any significant
8 : 4 6 A M 18 delay.

8 : 4 6 A M 19 THE COURT: Okay. And -- well, what about the
8 : 4 6 A M 20 courtroom deputy?

8 : 4 6 A M 21 MS. ASOKAN: Your Honor, it's our understanding that
8 : 4 6 A M 22 that's not necessary, but it's ultimately the Court's
8 : 4 7 A M 23 preference. If the Court would like to have the deputy
8 : 4 7 A M 24 present, if there are proceedings that have to be held on a
8 : 4 7 A M 25 classified record, then, of course, you know, that's something

8 : 4 7 A M 1 that the CISO could accommodate as well.

8 : 4 7 A M 2 THE COURT: Okay. And I think that's -- that would
8 : 4 7 A M 3 be a good thing to do because it's much easier for me if she's
8 : 4 7 A M 4 able to sit through any type of hearings that might require
8 : 4 7 A M 5 clearance.

8 : 4 7 A M 6 What about counsel?

8 : 4 7 A M 7 MS. ASOKAN: Yes, Your Honor. So as Mr. Sansone
8 : 4 7 A M 8 indicated, he had begun the process to obtain a clearance for
8 : 4 7 A M 9 this case. It's our understanding after speaking with the CISO
8 : 4 7 A M 10 yesterday that he had not finished submitting his paperwork,
8 : 4 7 A M 11 but nevertheless, it's a moot issue now. Now that Mr. Futerman
8 : 4 7 A M 12 is in the case representing Mr. Brown, the process will need to
8 : 4 7 A M 13 restart for him, and he would need to submit the necessary
8 : 4 8 A M 14 paperwork to obtain a clearance in order for any type of
8 : 4 8 A M 15 discovery review or for litigation to proceed.

8 : 4 8 A M 16 THE COURT: Okay. And who does he reach out to? Are
8 : 4 8 A M 17 you going to give him some specific information as far as who
8 : 4 8 A M 18 he contacts?

8 : 4 8 A M 19 MS. ASOKAN: Yes, Your Honor. It would be the
8 : 4 8 A M 20 same -- the same CISO that we've been talking to. I guess
8 : 4 8 A M 21 there's a threshold issue or preliminary issue of appointing --
8 : 4 8 A M 22 the Court formally appointed the CISO to this case, which is
8 : 4 8 A M 23 something that we wanted to raise with you today as well. It's
8 : 4 8 A M 24 our understanding there's a couple of ways that this can be
8 : 4 8 A M 25 done. Either the CISO can reach out to the Court and sort of

8 : 4 8 A M 1 have an informal conversation about it, about getting everyone
8 : 4 8 A M 2 up to speed and getting the process started for both the Court
8 : 4 8 A M 3 and defense counsel, or the Government can file a motion
8 : 4 8 A M 4 requesting that formal appointment which we can do in very
8 : 4 8 A M 5 short order.

8 : 4 8 A M 6 THE COURT: Yeah, and when I've done this in the
8 : 4 8 A M 7 past, that's what's happened, and I have granted the motion,
8 : 4 8 A M 8 and then the person, whoever that might be, then reaches out to
8 : 4 9 A M 9 me and then also would need to reach out to counsel for the
8 : 4 9 A M 10 defense.

8 : 4 9 A M 11 MS. ASOKAN: Yes, Your Honor. We can do that in the
8 : 4 9 A M 12 next couple of days.

8 : 4 9 A M 13 THE COURT: Okay. When you say it's not as -- well,
8 : 4 9 A M 14 maybe I misunderstood. Last time I did this, it was top
8 : 4 9 A M 15 secret. So what is -- it's the same process for secret
8 : 4 9 A M 16 documents as well?

8 : 4 9 A M 17 MS. ASOKAN: There's -- yes, Your Honor, for the most
8 : 4 9 A M 18 part. There's just -- I guess the handling and things like
8 : 4 9 A M 19 that is a little bit different, but as far as the basic
8 : 4 9 A M 20 process, you have to fill out the SF-86. Then you're granted
8 : 4 9 A M 21 an interim clearance, and then there is a background
8 : 4 9 A M 22 investigation that the FBI performs to get your full clearance
8 : 4 9 A M 23 and so on. It's our understanding from the CISO that to start
8 : 4 9 A M 24 the process again for Mr. Futerman, they expect it to take 30
8 : 5 0 A M 25 to 60 days, assuming there are no hiccups along the way and all

8 : 5 0 A M 1 the paperwork gets processed, submitted and processed in a
8 : 5 0 A M 2 timely fashion.

8 : 5 0 A M 3 THE COURT: Okay. Yeah, that's quicker than it
8 : 5 0 A M 4 happened last time, so hopefully that's true.

8 : 5 0 A M 5 Okay. So my hopes of getting this case set for
8 : 5 0 A M 6 trial are slim to none at this point. Mr. Futerman, I had said
8 : 5 0 A M 7 I think in our last status with this that I thought it was
8 : 5 0 A M 8 important that we go ahead and try to set a trial date that we
8 : 5 0 A M 9 could at least focus on and work toward because a lot of time
8 : 5 0 A M 10 was being spent on -- and I'm not downgrading them at all, but
8 : 5 0 A M 11 peripheral matters, and it's my understanding that Mr. Brown
8 : 5 0 A M 12 wishes to go to trial. So I thought if we could just focus on
8 : 5 0 A M 13 a date, that would be helpful. I'm not sure I could do that at
8 : 5 1 A M 14 this point because I'm not sure how long it's going to take for
8 : 5 1 A M 15 everybody to get a security clearance, and you can't even look
8 : 5 1 A M 16 at the documents, Mr. Futerman, until you get a security
8 : 5 1 A M 17 clearance. So -- anyway, all right.

8 : 5 1 A M 18 MS. ASOKAN: Your Honor, one more matter on this
8 : 5 1 A M 19 topic of the clearances and the documents. We also need to
8 : 5 1 A M 20 figure out a work space for discovery review. It doesn't need
8 : 5 1 A M 21 to happen right this instance, but just something to find for
8 : 5 1 A M 22 the Court. The CISO said that the best way to move forward on
8 : 5 1 A M 23 this would just be for a temporary space in the courthouse to
8 : 5 1 A M 24 be designated. That's something that she would help us and
8 : 5 1 A M 25 help the Court facilitate and get set up, but, of course,

8 : 5 1 A M 1 that's something that cannot happen or need to happen until
8 : 5 1 A M 2 defense counsel is cleared to review the discovery.

8 : 5 2 A M 3 THE COURT: And I appreciate your reminding me of
8 : 5 2 A M 4 that. Last time we had to designate a work space, it had to be
8 : 5 2 A M 5 a windowless space in the courthouse. Is that still accurate?

8 : 5 2 A M 6 MS. ASOKAN: I'm not sure, Your Honor. I'm not sure
8 : 5 2 A M 7 if that's still the requirement or not, but I can double-check
8 : 5 2 A M 8 on that.

8 : 5 2 A M 9 THE COURT: Okay. If you'll let me know as quickly
8 : 5 2 A M 10 as possible, and then I'll go ahead and get that space reserved
8 : 5 2 A M 11 for Mr. Futerman so that he can be there, but, you know, it
8 : 5 2 A M 12 makes a difference as far as the space is concerned. I'll have
8 : 5 2 A M 13 to find -- normally we would probably find a space on the end
8 : 5 2 A M 14 with -- but it would have windows, so we would have to find
8 : 5 2 A M 15 someplace that didn't. So if you'll let me know that as soon
8 : 5 2 A M 16 as possible. Actually, you can just call my office. You can
8 : 5 2 A M 17 call my courtroom deputy and let her know that, "I don't think
8 : 5 2 A M 18 that is any problem," and then once we get that, we'll start
8 : 5 2 A M 19 looking for space for Mr. Futerman.

8 : 5 2 A M 20 MS. ASOKAN: Yes, Your Honor. I'll do that today.

8 : 5 3 A M 21 And the last thing on this is just to note as
8 : 5 3 A M 22 far as timing, once that space is set up and defense counsel is
8 : 5 3 A M 23 cleared, I think it's important for the Court to know that the
8 : 5 3 A M 24 volume of classified discovery in this case is very limited.
8 : 5 3 A M 25 This is not one of those cases with -- you know, a terrorism

8 : 5 3 A M 1 case or something like that with voluminous discovery. It's a
8 : 5 3 A M 2 very small universe, so the time for review after all of this
8 : 5 3 A M 3 is in place should not be more than a few days. So we don't
8 : 5 3 A M 4 expect that portion to add significant delay to the case. It's
8 : 5 3 A M 5 more of this process of getting everything set up. That may
8 : 5 3 A M 6 take some time.

8 : 5 3 A M 7 THE COURT: Okay.

8 : 5 3 A M 8 MR. FUTERMAN: One other point, Your Honor, just so
8 : 5 3 A M 9 everyone is aware. One of my associate lawyers, she's worked
8 : 5 3 A M 10 with me for 15 years. Her name is Melissa Loesch, and she's
8 : 5 3 A M 11 appeared in Federal Court, and she would be assisting me on the
8 : 5 3 A M 12 motions particularly, and if it goes to trial, she'll be
8 : 5 3 A M 13 co-counsel. So I will have her file -- now the Court has
8 : 5 3 A M 14 allowed me to substitute -- notice of co-counsel so that we can
8 : 5 4 A M 15 get a security clearance for the two of us.

8 : 5 4 A M 16 THE COURT: Okay. And -- yes, anybody who's going to
8 : 5 4 A M 17 work on it would have to have the same type of clearance, so
8 : 5 4 A M 18 yeah. If -- she can go ahead and file a Notice of Appearance
8 : 5 4 A M 19 in the case, and then she'll have to go through the same
8 : 5 4 A M 20 process.

8 : 5 4 A M 21 Okay. So the Government is going to reach out
8 : 5 4 A M 22 and let us know who our contact person is. They're going to
8 : 5 4 A M 23 contact -- well, you're going to file a motion. They're going
8 : 5 4 A M 24 to contact us and also Mr. Futerman and let us know -- I think
8 : 5 4 A M 25 we have the court reporter that's already cleared. I'll get

8 : 5 4 A M 1 her name and that information. Then as far as my chambers are
8 : 5 4 A M 2 concerned, we have a law clerk and a courtroom deputy. So
8 : 5 4 A M 3 that's two, four people that I'm aware of, not including the
8 : 5 4 A M 4 court reporter. So that shouldn't be too lengthy.

8 : 5 5 A M 5 So before -- before we had to -- we maintained,
8 : 5 5 A M 6 as I recall, two separate dockets. We maintained a secret --
8 : 5 5 A M 7 or top secret docket and a regular docket, and so at that point
8 : 5 5 A M 8 we had -- but the documents in that case were voluminous. We
8 : 5 5 A M 9 had to have someone in the clerk's office designated -- or also
8 : 5 5 A M 10 go through the process as far as security clearance is
8 : 5 5 A M 11 concerned. I don't think that's going to be necessary if these
8 : 5 5 A M 12 are a limited number of documents in this case.

8 : 5 5 A M 13 MS. ASOKAN: That's correct, Your Honor.

8 : 5 5 A M 14 THE COURT: Okay. All right. Okay. So
8 : 5 5 A M 15 Mr. Futerman, anything else that you want to discuss?

8 : 5 6 A M 16 MR. FUTERMAN: My only request of the Court if the
8 : 5 6 A M 17 Court is going to set another status conference given the
8 : 5 6 A M 18 timing of everything is I am in front of Judge Jung on a date
8 : 5 6 A M 19 certain trial in the entire month of May, and then before Judge
8 : 5 6 A M 20 Honeywell on a three co-defendant murder case date certain
8 : 5 6 A M 21 June. If the Court would be gracious enough to set the next
8 : 5 6 A M 22 status conference after that, any time in July or August. I
8 : 5 6 A M 23 think --

8 : 5 6 A M 24 THE COURT: July?

8 : 5 6 A M 25 MR. FUTERMAN: July would be great.

8 : 5 6 A M 1 THE COURT: Okay. And that would give hopefully us
8 : 5 6 A M 2 time to resolve the security issue, I hope.

8 : 5 6 A M 3 What says the Government? Do you have any
8 : 5 6 A M 4 objections to my continuing this case and setting it over for a
8 : 5 6 A M 5 status in July?

8 : 5 6 A M 6 MS. ASOKAN: No objection to the continuance, Your
8 : 5 6 A M 7 Honor, and not to the status either, but now seems like an
8 : 5 7 A M 8 appropriate time to mention that I'll actually be going on
8 : 5 7 A M 9 maternity leave at the end of May, and that's why Mr. Marcet
8 : 5 7 A M 10 has stepped in, and he will be lead counsel at that point, but
8 : 5 7 A M 11 he has been involved since he started in our office and is
8 : 5 7 A M 12 completely familiar with the case, so there shouldn't be any
8 : 5 7 A M 13 issue of delay on our end as far as Mr. Marcet being up to
8 : 5 7 A M 14 speed, but just for the Court's awareness that if the next
8 : 5 7 A M 15 status is in July, it will be Mr. Marcet.

8 : 5 7 A M 16 THE COURT: Okay. And how long are you out on
8 : 5 7 A M 17 maternity leave?

8 : 5 7 A M 18 MS. ASOKAN: For a few months, Your Honor, until late
8 : 5 7 A M 19 fall.

8 : 5 7 A M 20 THE COURT: Okay.

8 : 5 7 A M 21 MS. ASOKAN: But Mr. Marcet will be trying the case
8 : 5 7 A M 22 with co-counsel.

8 : 5 7 A M 23 THE COURT: Okay. And you'll probably be back by the
8 : 5 7 A M 24 time the case goes to trial at the rate we're going. And when
8 : 5 7 A M 25 you say co-counsel, are you talking about Ms. Krigsmann?

8 : 5 7 A M 1 MS. ASOKAN: Your Honor, possibly Ms. Krigsmann, but
8 : 5 8 A M 2 also another attorney from DC to handle the classified
8 : 5 8 A M 3 information charges. He has not filed an appearance yet.

8 : 5 8 A M 4 THE COURT: Okay. All right. Anything else?

8 : 5 8 A M 5 MS. ASOKAN: Your Honor, I do have one matter of
8 : 5 8 A M 6 discovery just to raise with the Court. Judge Flynn clarified
8 : 5 8 A M 7 at the hearing on the 25th that Mr. Brown, in fact, did not
8 : 5 8 A M 8 need to sign the acknowledgment to the protective order in
8 : 5 8 A M 9 order to review discovery, so I apologize for the confusion on
8 : 5 8 A M 10 that point. However, he did mention that any attorneys or any
8 : 5 8 A M 11 member of the legal defense team would need to, so we would
8 : 5 8 A M 12 just ask that to the extent that new counsel and other counsel
8 : 5 8 A M 13 are getting involved in the case and assisting in the case,
8 : 5 8 A M 14 including the two pro bono attorneys that were mentioned in the
8 : 5 8 A M 15 Faretta motion that were not mentioned by name, that all of
8 : 5 9 A M 16 those people sign the acknowledgment before reviewing
8 : 5 9 A M 17 discovery.

8 : 5 9 A M 18 THE COURT: Anybody that's going to review the
8 : 5 9 A M 19 discovery period?

8 : 5 9 A M 20 MS. ASOKAN: Yes, Your Honor. Yes, Your Honor.

8 : 5 9 A M 21 THE COURT: Okay. Mr. Futerman, that was certainly a
8 : 5 9 A M 22 concern that I had when Mr. Sansone put that in his -- and I
8 : 5 9 A M 23 was going to ask about it -- in his motion, and I'm not so
8 : 5 9 A M 24 concerned now, but I didn't want to get in a position where
8 : 5 9 A M 25 someone that had not entered a Notice of Appearance in this

8:59AM 1 case was ghost writing motions or that sort of thing, which is
8:59AM 2 not the first time I've had that happen. And so if anything is
8:59AM 3 filed in this case, it's got to be your work product, not some
8:59AM 4 friend or somebody that's not a member of the Middle District
8:59AM 5 Bar and has not filed a Notice of Appearance in this case.

8:59AM 6 MR. FUTERMAN: I spoke -- before I took the case,
8:59AM 7 Your Honor, I had the -- I think we're just getting a little
9:00AM 8 echo. But anyway, I had those conversations with both those
9:00AM 9 lawyers. They're just recent lawyers, both in January.
9:00AM 10 They're very nice, and they understood that their input is
9:00AM 11 going to be limited at this point, and it will be my preference
9:00AM 12 that the discovery is only going to stay in my office. I'm not
9:00AM 13 going to share anything with anybody else not associated with
9:00AM 14 the case. Nothing good happens when that happens. Mr. Brown
9:00AM 15 understands it. I believe he's going to follow my advice as to
9:00AM 16 that. I've also told him not to discuss any on the jail calls,
9:00AM 17 so hopefully he'll follow my advice as to that. And the other
9:00AM 18 two individuals that were helping, as I said, they were very
9:00AM 19 polite, very gracious, and very understanding of the kind of
9:00AM 20 rules I set in going forward, so I hope that won't be an issue.

9:00AM 21 THE COURT: Okay. And, you know, a lot of the
9:00AM 22 problem I've experienced in the past -- and take this in case
9:00AM 23 you want to reach out to Mr. Brown about this -- is that the
9:01AM 24 attorneys who had not filed a Notice of Appearance and who
9:01AM 25 had -- were not members of the Middle District Bar were

9:01AM 1 contacting the Defendant directly and making it very difficult
9:01AM 2 for his assigned counsel or the counsel that was -- had entered
9:01AM 3 the Notice of Appearance to represent him. So I just -- I just
9:01AM 4 thought that would be just such a difficult situation, not only
9:01AM 5 for the Court, but for you too.

9:01AM 6 MR. FUTERMAN: I agree, and I've made those
9:01AM 7 instructions clear to them, and it's my anticipation they will
9:01AM 8 follow that.

9:01AM 9 MR. SANSONE: And, Your Honor, just for the record, I
9:01AM 10 have not shared discovery with anyone in this case, and because
9:01AM 11 of the signing issue, which was -- is now, as Judge Flynn has
9:01AM 12 stated, that Mr. Brown doesn't have to sign that attachment to
9:02AM 13 receive discovery. I have actually not even shown Mr. Brown
9:02AM 14 the discovery. The only thing he has reviewed at this time is
9:02AM 15 the search warrant and the search warrant affidavit, which he
9:02AM 16 already had before me entering. So I did put that in the
9:02AM 17 motion as to the Faretta, and I was going to discuss with Your
9:02AM 18 Honor those two people and how they were kind of tangentially
9:02AM 19 helping him, but they have not received any discovery in the
9:02AM 20 case.

9:02AM 21 MR. FUTERMAN: And that's helpful, because as I said,
9:02AM 22 I will not be giving them anything, so --

9:02AM 23 THE COURT: Okay. All right. Does anybody have
9:02AM 24 anything else to bring up?

9:02AM 25 MS. ASOKAN: Yes, Your Honor, one more matter for me.

9 : 0 2 A M 1 I'll take the opportunity since it might be the last time that
9 : 0 2 A M 2 I speak here. Just as a suggestion to move forward separate
9 : 0 2 A M 3 from the classified information, is the Court interested in
9 : 0 2 A M 4 setting a deadline for the Motion to Suppress or other motions
9 : 0 2 A M 5 that could be filed separate from -- from the classified
9 : 0 2 A M 6 documents charges?

9 : 0 2 A M 7 THE COURT: Well, I think there is a deadline --
9 : 0 3 A M 8 there is a deadline once he is arraigned on the Superseding
9 : 0 3 A M 9 Indictment, but I can go ahead and set a deadline as well.

9 : 0 3 A M 10 Mr. Futerman, you're new in this case, so you
9 : 0 3 A M 11 anticipate filing, you said, a Motion to Suppress, maybe other
9 : 0 3 A M 12 motions, and I'm not -- I'm not sure I can really give a
9 : 0 3 A M 13 deadline because I don't know how long it's going to take him
9 : 0 3 A M 14 to get his security clearance, and the deadline can't come
9 : 0 3 A M 15 until after the security clearance, but I would be looking at
9 : 0 3 A M 16 probably a deadline -- and we can discuss this in July -- from
9 : 0 3 A M 17 about 30 days from the time that you get your security
9 : 0 3 A M 18 clearance in order to file any motions.

9 : 0 3 A M 19 MR. FUTERMAN: That seems great, Your Honor. And
9 : 0 3 A M 20 Mr. Brown knows, I've told him again in taking this case, that
9 : 0 3 A M 21 the next 60 days I'm going to be tied up in two federal trials,
9 : 0 4 A M 22 and so he understands as I come into this not much is going to
9 : 0 4 A M 23 happen over the next 60 days, and that coincides with the
9 : 0 4 A M 24 security clearance background anyway, so --

9 : 0 4 A M 25 THE COURT: Okay. All right. Anything else from the

9 : 0 4 A M 1 Government?

9 : 0 4 A M 2 MS. ASOKAN: No, Your Honor. Thank you so much.

9 : 0 4 A M 3 THE COURT: All right. Mr. Futerman, anything else
9 : 0 4 A M 4 that you would like to discuss?

9 : 0 4 A M 5 MR. FUTERMAN: No, Your Honor. Thank you.

9 : 0 4 A M 6 THE COURT: All right. I'll grant the defense's
9 : 0 4 A M 7 Motion to Continue, find the ends of justice require a
9 : 0 4 A M 8 continuance. Restatus this matter on July 20th at 9:00 in the
9 : 0 4 A M 9 morning.

9 : 0 4 A M 10 MR. FUTERMAN: Thank you.

9 : 0 4 A M 11 THE COURT: And, Ms. Asokan, you're going to file a
9 : 0 4 A M 12 motion regarding the security clearance, and if you'll reach
9 : 0 4 A M 13 out to my courtroom deputy -- or maybe I can tell you right
9 : 0 4 A M 14 now. What's the name of the court reporter?

9 : 0 4 A M 15 COURTROOM DEPUTY: Melissa Pierson.

9 : 0 4 A M 16 THE COURT: What?

9 : 0 4 A M 17 COURTROOM DEPUTY: Melissa Pierson.

9 : 0 4 A M 18 THE COURT: Pierson. The court reporter is Melissa
9 : 0 4 A M 19 Pierson, P-a-r-s-o-n; is that right?

9 : 0 5 A M 20 COURTROOM DEPUTY: P-i-e-r-s-o-n.

9 : 0 5 A M 21 THE COURT: P-i-r-s-o-n. I'm sorry.

9 : 0 5 A M 22 MR. FUTERMAN: Your Honor, one thing I just thought
9 : 0 5 A M 23 of. Mr. Brown is set for arraignment tomorrow, and I had him
9 : 0 5 A M 24 sign the waiver of presence at arraignment. The courtroom
9 : 0 5 A M 25 deputy had called our office and said that we needed to change

9 : 0 5 A M 1 the language to Superseding Indictment because we had
9 : 0 5 A M 2 Indictment in there, but allowed once he called back to
9 : 0 5 A M 3 electronically sign for him, which he is calling back shortly,
9 : 0 5 A M 4 and I don't foresee a problem. Do you want us to still go
9 : 0 5 A M 5 forward with the arraignment tomorrow, process of arraignment,
9 : 0 5 A M 6 or should we handle that now, enter, you know, a plea of not
9 : 0 5 A M 7 guilty and anticipate a new Superseding Indictment signature
9 : 0 5 A M 8 electronically by him?

9 : 0 5 A M 9 THE COURT: I'm sorry, I'm not quite understanding
9 : 0 5 A M 10 the question. So he has to -- why don't you just go ahead and
9 : 0 5 A M 11 proceed normally with the magistrate judge.

9 : 0 5 A M 12 MR. FUTERMAN: Okay. Great.

9 : 0 5 A M 13 THE COURT: And let me go back. I misspelled the
9 : 0 5 A M 14 name. It's -- Melissa's last name is P-i-e-r-s-o-n, Melissa
9 : 0 6 A M 15 Pierson, and she has been a court reporter for a number of
9 : 0 6 A M 16 years in this district and another district, so if -- the
9 : 0 6 A M 17 security clearance might not necessarily have occurred out of
9 : 0 6 A M 18 this district. Okay.

9 : 0 6 A M 19 MR. FUTERMAN: Thank you. That's all I have, Your
9 : 0 6 A M 20 Honor.

9 : 0 6 A M 21 THE COURT: What?

9 : 0 6 A M 22 MR. FUTERMAN: Thank you. That's all I have.

9 : 0 6 A M 23 THE COURT: Okay. All right. Well, if I don't see
9 : 0 6 A M 24 you before, I'll reschedule this for a Zoom hearing, and I
9 : 0 6 A M 25 think I will be doing statuses by Zoom on July the 20th at

9:00.

MS. ASOKAN: Your Honor, one question. Sorry for dragging this out. We had already -- we had already had a status set for May 18th from the previous status on March 16th. Is that no longer on the Court's calendar?

THE COURT: No longer on the Court's calendar. I'm canceling that.

MS. ASOKAN: Okay. Thank you, Your Honor. And in conjunction with our Motion to Appoint the CISO, we'll also likely be requesting a Section 2 CIPA conference, and so just an FYI for the Court.

THE COURT: Okay. All right. That's fine, and if any of you need to have a hearing or set a hearing on anything, just let us know, and I'll be happy to do that. I'm around except for about 10 days at the beginning of next month, and I anticipate being around all summer, unlike Ms. Asokan who's going to be tied up.

MS. ASOKAN: Yes.

THE COURT: All right. Thank you.

MS. ASOKAN: Thank you, Your Honor.

MR. FUTERMAN: Thank you, Your Honor.

(End of proceedings.)

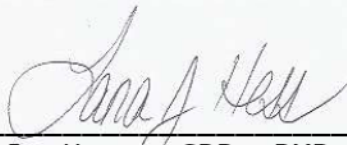
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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

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Tana J. Hess, CRR, RMR, FCRR
Official Court Reporter
United States District Court
Middle District of Florida
Tampa Division
Date: June 9, 2022

Tana J. Hess, CRR, RMR, FCRR
U.S. District Court Reporter
Middle District of Florida