

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,)	Criminal Action
)	No. 21-CR-292
vs.)	
)	November 3, 2021
CHRISTOPHER JOHN WORRELL,)	11:16 a.m.
Defendant.)	Washington, D.C.

* * * * *

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROYCE C. LAMBERTH,
UNITED STATES DISTRICT COURT SENIOR JUDGE
(Parties appearing via videoconference and/or telephonically.)

APPEARANCES:

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ALSO PRESENT:

ERIC GLOVER, General Counsel, D.C. DOC
CHRISTINE SCHUCK, Pretrial Services Officer

Court Reporter:

Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

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P R O C E E D I N G S

THE COURTROOM DEPUTY: All right. This Honorable Court is now in session. The Honorable Judge Royce C. Lamberth is presiding.

Good morning, Your Honor.

THE COURT: Good morning.

THE COURTROOM DEPUTY: Good morning, everyone.

We're here for a criminal status conference in case 21-292, the United States of America versus Christopher John Worrell.

Your Honor, for counsel for the government we have William Dreher; and we have Christine Schuck for pretrial.

If defense could identify yourself for the record, please.

MR. STAVROU: Your Honor, Alex Stavrou on behalf of Christopher Worrell who is present by video.

THE COURT: Okay.

THE COURTROOM DEPUTY: And, Your Honor, I did have one unidentified source. I had another, but I found out that was pretrial; one unidentified source that attempted to come into the Zoom hearing.

I removed them from the hearing. I am not sure who it was, but they refused to identify themselves. Just so you know.

THE COURT: All right.

1 And for the United States?

2 MR. DREHER: Good morning, Your Honor.

3 William Dreher for the United States.

4 THE COURT: All right. And for the D.C. parties?

5 Mr. Copeland.

6 MR. COPELAND: Yes, Your Honor. Good morning.

7 Chad Copeland from the Office of the Attorney General. I am
8 here with Katrina Seeman who is an Assistant Attorney
9 General from our office; and Eric Glover, who is the General
10 Counsel for the Department of Corrections.

11 THE COURT: Okay.

12 All right. I have read all of the papers that all
13 of you have filed, including the United States' memo filed
14 at 1:20 this morning. I am prepared to go through a summary
15 of where I think we are.

16 I did have one thing I wanted to raise first; and
17 then I will hear anything y'all want to add to any of the
18 papers you have.

19 I had a status conference off the record with
20 counsel for the gov- -- counsel for the United States and
21 counsel for the defendant one day last week in which I had
22 the government confirm that -- and I wanted to put that on
23 the record, that they had no evidence -- their recollection
24 of the evidence was the same as mine; that there was no
25 evidence of any record that Dr. Wilson had -- prior to my

1 contempt -- my first entry of an order requesting --
2 requiring the government to produce the -- his notes of
3 the -- that had been required by the Marshal to approve the
4 surgery, that there had not been any written record of
5 Dr. Wilson saying anything other than that a surgery was
6 required, and the efforts to get Dr. Wilson to say something
7 different were all subsequent to my order; and the
8 government confirmed that they had no written record of
9 anything prior to my order.

10 And I just wanted to confirm that's still your
11 understanding, Mr. Dreher.

12 MR. DREHER: Well, Your Honor, just with one
13 caveat, which is I believe your -- the forthwith order was
14 issued on Friday, October 8.

15 THE COURT: Right.

16 MR. DREHER: And the records -- the medical
17 records indicate a conversation between -- there is a note
18 of a conversation between Dr. O'Donovan at DOC and
19 Dr. Wilson; and that occurred -- my understanding is that
20 that occurred on Thursday, October 7; so prior to this
21 Court's order, so one day prior. I think it was after the
22 Marshal had requested the notes, which occurred in
23 September, but just prior to this Court's --

24 THE COURT: That note was allegedly created on
25 the 7th. Is there any indication it was, in fact, created

1 on the 7th?

2 MR. DREHER: I think just --

3 THE COURT: See, part of the problem is they
4 didn't put these notes in the record, right?

5 MR. DREHER: Well, when we received the electronic
6 medical record, that note of that conversation is in there.
7 And I think it's -- I can pull it up right now, but I
8 believe it is dated October 7th. So that I don't believe
9 was one of the notes that had -- that had not been present
10 in the electronic medical record; that one was in there the
11 entire time. That's my understanding, Your Honor.

12 THE COURT: All right. In any event --

13 THE COURTROOM DEPUTY: One moment, Judge.

14 Mr. Worrell, if you could mute your mic, please?

15 Mr. Worrell, if you could mute your mic when you
16 are not speaking. Thank you.

17 THE COURT: In any event, explain for the record a
18 little bit more about why there were so many notes that
19 weren't in the record and were in the record, and how that
20 was -- I mean, you, for weeks, had tried to get records that
21 you were never able to obtain; that's part of the whole
22 problem there. Right?

23 MR. DREHER: Well, Your Honor -- so the
24 United States has -- as the Court knows, on a number of
25 occasions pursuant to this Court's orders that we sought --

1 asked for the electronic medical record or, rather, asked
2 for medical records of Mr. Worrell.

3 What we got back was the -- sort of the electronic
4 medical record that we understood to be the complete file of
5 those medical records.

6 There was this issue that arose in late
7 September -- we first became aware of it in late September,
8 either the end of September or the very beginning of
9 October -- that the marshals were requesting the provider
10 notes from Dr. Wilson. I had not seen those in the
11 electronic medical record; and my understanding is they
12 weren't, obviously, in the electronic medical record until
13 they were scanned in on October 12.

14 In a later conversation with DOC, it became
15 apparent to myself that there were attachments that were
16 being -- that were part of the record in some fashion, but
17 that were not being transmitted when they were sending the
18 electronic medical record to us; and Mr. Glover was on that
19 phone call. And my understanding was that Mr. Glover also
20 was not aware -- because he was requesting the electronic
21 medical record, was not aware that these pages of
22 attachments were not being included in the transmission. So
23 once we discovered that, we asked for, obviously, the full
24 record including those attachments; and that's what we
25 obtained, I believe, in the subsequent --

1 THE COURT: The attachments were in the custody of
2 the Department of Corrections?

3 MR. DREHER: Yes. There were -- yes, like
4 Dr. Wilson's notes, for example.

5 THE COURT: They weren't at Howard University;
6 they were in the Department of Corrections --

7 MR. DREHER: I believe --
8 (Overlapping speakers.)

9 THE COURT: -- subsequently provided.

10 MR. DREHER: I believe that that is correct, Your
11 Honor.

12 THE COURT: So when the marshals were asking for
13 copies, the Department of Corrections had them and didn't
14 provide them to the marshals.

15 MR. DREHER: That is my understanding from the
16 record. I just don't know whether there was a
17 miscommunication somewhere along the way, in terms of how
18 they got transferred.

19 THE COURT: And when you were asking for them, the
20 Department of Corrections didn't provide them to you either?

21 MR. DREHER: Well, just to clarify, what I
22 asked -- I would ask DOC for the medical records of
23 Mr. Worrell; I would then get back some electronic medical
24 record.

25 Again, I was not aware until late September, early

1 October, that the marshals wanted these separate handwritten
2 notes. And so I don't recall --

3 THE COURT: When you were asking for them it was
4 because I was asking for them because I wanted this all
5 cleared up before September 18th; and you knew that's what I
6 was trying to do.

7 MR. DREHER: That's correct.

8 THE COURT: And I wanted the medical records from
9 the Department of Corrections which they repeatedly did not
10 give me --

11 MR. DREHER: Yes. I understood --

12 THE COURT: -- which is in their custody; and now
13 they want to weasel out and say they gave me everything.

14 Okay. Go ahead.

15 MR. DREHER: Yes. Thank you, Your Honor.

16 I understand, yes --

17 THE COURT: When we asked for the --

18 (Overlapping speakers.)

19 MR. DREHER: -- that is what I understood the
20 Court to want.

21 THE COURT: -- they didn't give me the documents.

22 MR. DREHER: And I was merely saying that in that
23 period in September, rather than in early October, what I
24 had requested was, sort of, a generic request for all of the
25 medical records. And obviously those did not include the

1 notes that were not scanned in at that time period and that
2 were later scanned in on October 12th; that's all I was
3 clarifying.

4 THE COURT: All right.

5 All right. In any event, let me go through what
6 my notes show as an update since the last hearing; and then
7 I will let y'all add in what you want to add.

8 The orthopedic specialist who treated the
9 defendant Worrell, Dr. Wilson, after the last hearing, saw
10 the defendant again and has now concluded that surgery is
11 not medically necessary and not urgent but, instead, an
12 elective procedure, after that was suggested by the
13 Department of Corrections' physician to him.

14 There is a factual dispute as to how that came
15 about. I am not going to try to resolve that now; and there
16 is a factual dispute as to whether he ever, in any way, made
17 that suggestion himself and what was in his original report.

18 The wording about it being "elective" was not, in
19 any way, in his written report that he provided at the time;
20 and there was no suggestion that it was, in any way,
21 elective surgery that he was providing. But the marshals
22 had been requesting a copy of his written report for some
23 extended period of time there, and had even put it in
24 writing.

25 In September they wanted the written report and

1 they were unable to obtain it; that's what I had been trying
2 to get myself and had asked you to try to get, after talking
3 to you about trying to get something so I could rule before
4 September 18th on his overall medical problems.

5 In any event, we also know an update on his
6 chemotherapy, that there was a need for an additional biopsy
7 with that. I don't actually know that that's now been
8 completed, and I don't know the exact current status; but,
9 in any event, we know he's going to need chemotherapy at
10 some point. And whether he also needs radiation, I guess,
11 still remains to be decided.

12 But as a result of my contempt finding, in my
13 referral to the Attorney General, I was told the same
14 afternoon of my referral to the Attorney General for the
15 civil rights investigation that the Attorney General --
16 well, the civil rights division instigated that
17 investigation promptly; that was on Wednesday, I guess, the
18 13th of October.

19 On Monday, the 18th of October, a number of U.S.
20 Marshals inspectors went to the D.C. Jail to conduct an
21 inspection of the D.C. Jail. The acting United States
22 Marshal for the District of Columbia briefed me that
23 afternoon on the first day's events.

24 I will make public the letter that he sent on
25 November 1st to the D.C. Department of Corrections. I sent

1 a copy of that letter to the Chief Judge of this court
2 yesterday, and I will make that public in part of the record
3 here. And I will also make public the press release that
4 the Marshals Service issued yesterday.

5 But in those public documents that I will make
6 part of the record, the Marshals Service concluded that the
7 conditions at the D.C. Jail were so egregious that all
8 federal prisoners should immediately be removed from the
9 D.C. Jail. And contrary to some news accounts of the report
10 of the Marshal's actions, the Marshal did not say conditions
11 were not egregious at the correctional treatment facility;
12 he simply said that they were not as egregious as at the
13 jail.

14 They are continuing to review the conditions at
15 the correctional treatment facility. The actual wording of
16 the Marshal -- I guess, I will leave it to the Marshal.

17 But when the marshals arrived at the jail and
18 finally gained entrance, they -- I guess the most disturbing
19 thing for me about Mr. Worrell is they -- they witnessed
20 jail staff members antagonizing detainees, directing
21 detainees not to cooperate with the review, and warning
22 detainees that they had better not snitch to the marshals.

23 The marshals actually overheard themselves
24 detainees being warned that they had better not tell
25 anything to other marshals. The marshals overheard these

1 warnings themselves, that there were threats being made to
2 inmates to not warn -- to tell what was really going on to
3 the marshals.

4 When this was brought to the attention of
5 supervisors in the jail, they were uninterested or unaware
6 that these threats were being made.

7 On the first day the Marshal informed me that
8 afternoon about one federal detainee who had been sprayed by
9 jail guards with a pepper spray irritant, and then left for
10 days without an opportunity to shower and, therefore,
11 reinfected in his skin because, when pepper spray is applied
12 and you are not allowed to wash it off, it continues to
13 reinfest you. And he continued to experience the burning
14 effects of pepper spray for days, which is a clear civil
15 rights violation, and probably a clear criminal violation of
16 those guards who participated in that.

17 I think, on the first day, he also advised me of
18 an inmate who was a federal prisoner who had sought access
19 to the sick call system for weeks who was not allowed to go
20 on sick call because he failed to complete the form
21 requesting sick call. He wasn't able to complete the form
22 because his fingers were so hurt that he couldn't move his
23 fingers; and two of his fingers had turned black, and he was
24 unable to write to complete the form. So the marshals
25 actually took him up to sick call because he could not

1 complete the form, and that's why he had not been taken on
2 to sick call.

3 In another instance the Marshal told me -- I think
4 this is only the first or the second day -- that, in
5 retaliation for prisoners' actions, the D.C. staff had cut
6 off the water to the entire pod of the cell block. The
7 prisoners and detainees were wrongly deprived of water for
8 daily activities, like showering. But the marshals also
9 then witnessed unsanitary conditions because the resulting
10 clogging backed up toilets and resulted in large amounts of
11 standing human sewage throughout that cell block.

12 In the Marshal's letter to D.C., he notes that the
13 water in many of the cells within South 1 and North 1 had
14 been shut off for days, prohibiting detainees from drinking
15 water, washing hands, or flushing toilets; and that
16 inspectors observed large amounts of standing human sewage
17 and human feces in the toilets of multiple occupied cells.
18 The smell of urine and feces was overpowering in many
19 locations. D.C. staff confirmed to inspectors that water to
20 the cells was routinely shut off for punitive reasons.

21 The marshals also noted that food delivery and
22 storage is inconsistent with industry standards; hot meals
23 were observed served cold and congealed; evidence of drug
24 use was pervasive. Marijuana smoke and odor were
25 widespread; they had a stream of smoke and odor of

1 marijuana. Detainees had observable injuries with no
2 corresponding medical or incident reports available to
3 inspectors. And, as already noted, DOC staff were observed
4 antagonizing detainees, and observed -- directing detainees
5 to not cooperate with inspectors.

6 And with all of those findings, the Marshal
7 determined to remove all federal prisoners from the D.C.
8 Jail. They did tell me that they had removed 335 prisoners.

9 They returned to the jail -- an inspection of a
10 jail of that size would normally be completed in two to
11 three days; they stayed five days. They did go back on
12 Sunday.

13 And for the first time in the history of our
14 particular Marshal here, our Acting Marshal, they were
15 ordered to leave the jail, and they were barred entry. In
16 his entire career, he has never seen any local jail that
17 ever barred the Marshal from entering the jail, but they
18 were barred entry to the jail. They did not get into a
19 shootout, but they did not enter the jail on Sunday.

20 It is beyond belief some of the reports of the
21 Marshal here to the Court yesterday. We had an executive
22 session of the full court yesterday. And he said the
23 conditions at the D.C. Jail were deplorable; the conditions
24 in CTF were not as deplorable. And the immediate action
25 taken by the Department of Justice was to move all federal

1 inmates out of the D.C. Jail; that does not mean that the
2 conditions in CTF were meeting any standards. According to
3 him, they were not as deplorable as the conditions in the
4 D.C. Jail.

5 So that's my background on which I act today.

6 Now, in terms of the record here, in *U.S. v*
7 *Salerno*, the Supreme Court affirmed the constitutionality of
8 the Bail Reform Act, concluding that pretrial detention
9 contemplated by the Bail Reform Act is regulatory in nature,
10 and does not constitute punishment before trial in violation
11 of the Due Process Clause, 481 U.S., at 748.

12 The parties had focused their attention on the Due
13 Process Clause and need not -- I need not reach the more
14 difficult question of whether due process provides the basis
15 for release under these circumstances because I find the
16 Bail Reform Act provides a sufficient legal framework.

17 The Bail Reform Act, at 18 U.S.C. 3142(i), states
18 that a judicial officer may, by subsequent order, permit the
19 temporary release of a person in custody of a U.S. Marshal
20 or another appropriate person, to the extent that the
21 judicial officer determines such release to be necessary for
22 the preparation of the person's defense or other compelling
23 reason. There are two primary elements of this provision;
24 one, release must be necessary for a compelling reason; and,
25 two, release must be made to an appropriate person.

1 So, first, the Court should conclude that the
2 defendant's medical condition -- specifically, in this case,
3 his cancer -- provides a compelling reason for release; but
4 not for the reasons argued by the defendant in his filings
5 and disputed by the government. The parties focused on the
6 quality of care or lack thereof at the D.C. Jail.

7 I wrote an original opinion rejecting the
8 defendant's condition, that his medical care was inadequate,
9 relying, in large part, on the records of the D.C. Jail; I
10 won't revisit that determination today, although I certainly
11 could.

12 But the defendant will soon be undergoing
13 chemotherapy for his cancer. He will require intensive and
14 structured treatment by his medical provider. In light of
15 the Department of Corrections' actions in this case,
16 evidenced -- as evinced by the findings of the U.S. Marshals
17 in their investigation, this Court has zero confidence that
18 the D.C. Jail will provide the treatment required by the
19 defendant's condition and that the D.C. Jail staff will not
20 retaliate against Worrell as they recently have against
21 other prisoners and detainees.

22 While the government disputes the seriousness of
23 the defendant's hand injury, the Court is not persuaded that
24 it can rely on the eleventh-hour statements of doctors and
25 DOC staff that are inconsistent with months of medical

1 records stating that the defendant needs surgery, and
2 came -- and are dated after the Court's contempt
3 proceedings.

4 The DOC's inability to provide records to the
5 Marshals Service in a timely matter, even after a court
6 order, only furthers the Court's concerns.

7 Courts in this district ask whether the compelling
8 reasons identified by a defendant effectively override or at
9 least sufficiently counterbalance the findings that
10 originally justified the pretrial detention order; that's in
11 *Boatwright*, at 2020 Westlaw 1639855, at 5.

12 So despite the serious charges that Worrell faces,
13 and this Court's prior dangerousness determination, the
14 compelling reasons for Worrell's release to home
15 incarceration counterbalance the findings that originally
16 justified his pretrial detention.

17 His physical condition while he undergoes
18 chemotherapy militates against the danger he would otherwise
19 impose. The Court will impose stringent conditions of
20 release to mitigate the identifiable threat that he would
21 otherwise pose to the public, and his need for medical
22 treatment is a compelling reason for his release from
23 custody at this time.

24 There must be an appropriate person as his
25 third-party custodian. Several decisions in this district,

1 including my own decision in *U.S. v Chansley*, treat the
2 "appropriate person" as a necessary and mandatory
3 requirement for temporary release under Section 3142(i).

4 An additional issue in the Middle District of
5 Florida is it does not have electronic monitoring devices,
6 so the third-party custodian will now serve the role of
7 enforcement of the person in custody.

8 I don't know anything about the custodian that we
9 would have as a third-party custodian here, so the custodial
10 issues will need to get worked out with Worrell's attorney.

11 I am going to order the Marshal to move
12 Mr. Worrell today to the Alexandria jail so that he is safe;
13 I do not want him harmed in D.C.'s custody while he
14 remains -- while I get this third-party custodian worked
15 out. So he will be moved forthwith to the Alexandria jail
16 until I have the third-party custodian selected and picked,
17 and the third-party custodian worked out. And Mr. Worrell
18 will be placed in third-party custody for his chemotherapy
19 with stringent conditions to ensure that he is -- does not
20 continue any kind of internet access and broadcasting, and
21 things like that, as has been done in other of these kinds
22 of cases.

23 Anyone want to make any additional comments on the
24 record?

25 The motion to reconsider last night filed by the

1 Attorney General, on behalf of the Department of Corrections
2 and their leaders, I will rule separately in writing; and I
3 don't propose to take that up, not having had any response
4 to it yet.

5 Anything else anyone else wants to say on the
6 record today, they may.

7 Mr. Dreher.

8 MR. DREHER: Your Honor, I think I heard the Court
9 talk about electronic monitoring. And as long as the --
10 that was our one -- the one thing that we wanted to make
11 sure of, is that while he was under the supervision program,
12 he be on electronic monitoring; and, as proposed by
13 Mr. Stavrou, that his -- that he be restricted to the Middle
14 District of Florida specifically; that's important to the
15 government for security reasons. Thank you.

16 THE COURT: Mr. Stavrou.

17 MR. STAVROU: Your Honor, I can propose --
18 Trish Priller is his significant other, it's been a
19 long-term relationship; and I certainly can propose her as a
20 person of supervision so-to-speak.

21 THE COURT: Okay. Talk to pretrial there. And
22 they have to do their interview, and -- they're in Florida,
23 and give them the information about her.

24 MR. STAVROU: Judge, she may very well be in the
25 Washington, D.C. area. So if those arrangements can be

1 made, I might be able to get that done.

2 THE COURT: Pretrial here can talk to her, yes.

3 MR. STAVROU: Very good, sir.

4 THE COURT: If it can be done right away -- I want
5 him moved to Alexandria right away. I told the marshals
6 this morning, I don't want him --

7 MR. STAVROU: Understood, sir.

8 And it was corrected in Mr. Dreher's filing; but
9 the parties consulted about a statement that I had made in
10 records to something said by Dr. Ali; it was indicated in a
11 sentence in another portion of the medical records that my
12 statement was in error. The parties discussed that. And
13 that correction that was made by Assistant United States
14 Attorney Dreher was done after we consulted.

15 THE COURT: Okay. All right.

16 Mr. Copeland.

17 MR. COPELAND: Thank you, Your Honor.

18 I first want to let the Court know that the
19 District takes the issues in the Marshal's letter very
20 seriously, and has attracted the -- and has the attention of
21 the highest levels of this government.

22 We are investigating. We have already reached out
23 to the U.S. Marshals Service. We're working on next steps.
24 We expect to keep the courts informed as to what's going on.

25 The only other thing that I would ask -- just to

1 clarify for the record, is that the District -- the
2 department takes no position in terms of the Court's
3 decision here.

4 I just did want to note that Mr. Worrell had been
5 housed for the entirety of his time at the CTF, and that the
6 Marshal's letter did say that -- this is quoting from it;
7 that the conditions at the CTF were observed to be largely
8 appropriate and consistent with federal prisoner detention
9 standards, and that the U.S. Marshals have not moved their
10 pretrial detainees from CTF; they have only removed them
11 from CDF, in light of the findings that the Court detailed
12 earlier.

13 Beyond that, Your Honor, I have nothing to add.

14 THE COURT: Okay. The Court will be in recess.

15 Thank you very much, Counsel.

16 Good luck, Mr. Worrell.

17 MR. STAVROU: Your Honor, can I be provided the
18 information for pretrial services so I can make the
19 arrangements?

20 THE COURTROOM DEPUTY: Counsel, she's on the line.

21 PRETRIAL SERVICES OFFICER: Good morning, Your
22 Honor.

23 MR. STAVROU: Okay.

24 PRETRIAL SERVICES OFFICER: I will reach out to
25 defense counsel. This is pretrial services for the District

1 of Columbia. We are the ones who will do the screening
2 because we have to request safety provisions from the Middle
3 District of Florida.

4 I will reach out to defense counsel now via email
5 with my contact information so that we can correspond.

6 MR. STAVROU: Very good. Thank you, ma'am.

7 THE COURT: And then I need a copy to the Court so
8 I can review it.

9 PRETRIAL SERVICES OFFICER: And I will reach out
10 to your law clerk who I have been working with.

11 THE COURT: Thank you very much, Counsel.

12 THE COURTROOM DEPUTY: This Honorable Court is
13 adjourned.

(Whereupon, the proceedings conclude, 11:54 a.m.)

14 **CERTIFICATE**

15 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
16 certify that the foregoing constitutes a true and accurate
17 transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings to the best of my
ability.

18 PLEASE NOTE: This hearing was held via
19 videoconference and telephonically in compliance with the
20 COVID-19 pandemic stay-safer-at-home recommendations and is
21 therefore subject to the limitations associated with the use
22 of technology, including but not limited to telephone signal
23 interference, static, signal interruptions, and other
24 restrictions and limitations associated with remote court
reporting via telephone, speakerphone, and/or
videoconferencing capabilities.

25 This certificate shall be considered null and void
if the transcript is disassembled and/or photocopied in any
manner by any party without authorization of the signatory
below.

Dated this 5th day of November, 2021.
/s/ Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter