

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

UNITED STATES OF AMERICA,

CR Action
No. 1:21-670

vs.

November 15, 2021
Washington, D.C.

STEPHEN K. BANNON,
Defendant.

TRANSCRIPT OF RETURN ON ARREST WARRANT & INITIAL APPEARANCE
BEFORE THE HONORABLE ROBIN M. MERIWEATHER
UNITED STATES DISTRICT MAGISTRATE JUDGE

APPEARANCES:

For the U.S.:

**AMANDA ROSE VAUGHN
MOLLY GULLAND GASTON
J.P. COONEY**

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For the Defendant:

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P R O C E E D I N G S

DEPUTY CLERK: Criminal case number 2021-670, *The United States of America versus Stephen K. Bannon.*

Molly Gaston, Amanda Vaughn and J.P. Cooney, representing the government; David Schoen, Matthew Corcoran representing the defendant. Andre Sidbury is the pre-trial services officer. The defendant is participating in person for this hearing.

This case is called for a return on an arrest warrant, an initial appearance and an arraignment.

Mr. Bannon, would you please stand and raise your right hand?

THE DEFENDANT: (Complied.)

DEPUTY CLERK: Do you solemnly swear that you will well and truly answer the questions propounded to you by the Court, so help you God?

THE DEFENDANT: I do.

DEPUTY CLERK: Thank you. You may be seated.

THE COURT: Mr. Bannon, could you please state your name for the record.

THE DEFENDANT: Stephen K. Bannon.

THE COURT: Thank you.

Do you have any health problems that would make it hard for you to understand what is happening in today's hearing?

1 **THE DEFENDANT:** I do not.

2 **THE COURT:** And in the last 24 hours, have you
3 taken any medication or other substances that would affect
4 your ability to understand today's hearing?

5 **THE DEFENDANT:** I have not.

6 **THE COURT:** Thank you.

7 You are here today for your initial appearance and
8 your arraignment. In this hearing I will tell you what you
9 have been charged with. I will advise you of your rights.
10 I will ensure that you have an attorney to represent you,
11 and I will determine whether and under what conditions you
12 will be released while waiting for your trial.

13 Let me begin by notifying you of the charges. You
14 have been charged by indictment with one count of Contempt
15 of Congress; that's an alleged violation of 2 United States
16 Code, Section 192. If you are found guilty of that, you
17 could face up to one year in prison and a fine of up to
18 \$1,000.

19 You have also been charged with another count of
20 Contempt of Congress, in violation of 2 United States Code,
21 Section 192; that also carries a maximum term of
22 imprisonment of up to one year and a maximum fine of up to
23 \$1,000.

24 Those are the charges that bring you before the
25 Court. At this time let me notify you of your rights. You

1 have the right to remain silent --

2 **MS. VAUGHN:** Excuse me, Your Honor.

3 **THE COURT:** Yes?

4 **MS. VAUGHN:** We just wanted to clarify the maximum
5 penalties on the offense. Title 2 U.S.C. Section 192
6 carries a minimum sentence of 30 days imprisonment.

7 **THE COURT:** Okay.

8 **MS. VAUGHN:** And also 18 U.S.C. 3571, a maximum
9 fine of \$100,000.

10 **THE COURT:** For both of them?

11 **MS. VAUGHN:** Yes, Your Honor.

12 **THE COURT:** Thank you for that clarification. At
13 this time I will go back to the notification of rights.

14 Mr. Bannon, you have the right to remain silent;
15 that means are you not required to make any statements to
16 law enforcement while these charges are pending against you.
17 If you choose to make statements to law enforcement, your
18 statements could be used against you in this proceeding or
19 in a future proceeding.

20 You also have the right to be represented by an
21 attorney in this case. If you cannot afford to retain your
22 own attorneys, then I will appoint a lawyer to represent you
23 at no cost to you.

24 You also have the right to a speedy and public
25 jury trial, which your guilt would have to be proven beyond

1 a reasonable doubt, and you cannot be forced to testify
2 against yourself.

3 Mr. Schoen and Mr. Corcoran, are you retained
4 counsel?

5 **MR. SCHOEN:** Yes, Your Honor.

6 **MR. CORCORAN:** Yes, Your Honor.

7 **THE COURT:** Thank you.

8 **MR. SCHOEN:** Your Honor, may I just raise one,
9 sort of, preliminary housekeeping issue?

10 I know the Court said we are here for an
11 arraignment. My understanding under Rule 58(b)(3) is that
12 there can't be an arraignment before the Magistrate Judge,
13 even on a misdemeanor, unless the defendant consents in
14 writing to a trial before the Magistrate Judge as well.

15 I just want to be clear that there is no implied
16 waiver here by going forward with an arraignment here.
17 Local Criminal Rule 58 goes to -- is tied, obviously, to
18 Federal Rules of Criminal Procedure 58(b)(3); and that's
19 what 58(b)(3) says. It's also consistent with 18 U.S.C.
20 3401.

21 I just want to be clear that there is no waiver
22 here of any right to proceed to jury trial or otherwise
23 before the District Court judge.

24 **THE COURT:** No. I routinely conduct arraignments.
25 I know this appears to be a Class A misdemeanor.

1 **MR. SCHOEN:** Yes, Your Honor.

2 **THE COURT:** I conduct felony arraignments all of
3 time, obviously, even if there is no option of consent to
4 proceed before me for felony. So, no, I'm not requesting --
5 although, I do always ask in these cases if there will be
6 consent, so I can add that part a little bit earlier.

7 This case has been assigned to Judge Nichols as
8 District Judge. Any defendant charged with a Class A
9 misdemeanor has the right to consent to a United States
10 Magistrate Judge. And if you wish to do so, that can be
11 done.

12 **MR. SCHOEN:** Yes, Your Honor.

13 And I completely understand the Court regularly
14 conducts arraignments, especially on felonies. It shows the
15 misdemeanor provision is different, it's under Rule 58
16 (b) (3), and that's the express provision.

17 In any event, as long as we are not waiving
18 anything, the Court's going to proceed as the Court deems
19 appropriate.

20 **THE COURT:** Okay. Thank you.

21 **MR. SCHOEN:** Thank you, Your Honor.

22 **THE COURT:** So the next question I was planning to
23 ask on my outline is whether counsel wanted to proceed with
24 the arraignment. Do you want to proceed with the
25 arraignment before me? You can also ask to have that

1 arraignment before Judge Nichols.

2 **MR. SCHOEN:** In terms of the arraignment, Your
3 Honor, Mr. Bannon was willing to waive arraignment in any
4 event, but as long as there's no waiver and the Court's
5 satisfied that Rule 58(b)(3) is consistent with that, we
6 will certainly proceed with the arraignment. We want to,
7 you know -- we want to move forward or we would waive the
8 arraignment, frankly.

9 **THE COURT:** Just a moment.

10 (Brief pause.)

11 **MS. VAUGHN:** Your Honor, we are happy to do the
12 arraignment in front of the District Judge, if that's what
13 the defendant prefers.

14 **MR. SCHOEN:** Okay.

15 **MS. VAUGHN:** We understand that he is reserving
16 the rights under the rule. Proceeding with an arraignment
17 before the district judge is fine with the government, if
18 that's what the defendant wishes to do.

19 **MR. SCHOEN:** We are willing to waive the
20 arraignment in any event, which I think we are allowed to do
21 under Rule 10.

22 **MS. VAUGHN:** We may end up in the same spot
23 anyway.

24 **THE COURT:** Thank.

25 I think based on my review of Rule 58, it would be

1 prudent not to do the arraignment. I do not want the affect
2 of anything I do to be something other than what I am
3 intending.

4 **MR. SCHOEN:** Thank you, Your Honor.

5 **THE COURT:** Thank you.

6 My chambers will advise Judge Nichols' chambers
7 that the arraignment was not part of today's proceedings.

8 **MR. SCHOEN:** Thank you, Your Honor.

9 **THE COURT:** At this time, I will advise an order
10 of the United States that it must, pursuant to Federal
11 Criminal Rule (5)(f) produce all exculpatory evidence to the
12 defense consistent with *Brady v. Maryland* and its progeny.
13 Failing to do so in a timely manner could lead to sanctions,
14 which could lead to exclusion of evidence, adverse jury
15 instructions, the dismissal of charges or contempt of
16 proceedings.

17 Ms. Kay, is this note the next date before Judge
18 Nichols?

19 **DEPUTY CLERK:** Yes, Your Honor.

20 **THE COURT:** Thank you.

21 I'll advise parties, Judge Nichols' next
22 availability for a status hearing in this case is Thursday,
23 November the 18th at 11 a.m.

24 And I believe -- Ms. Kay, does the location --
25 what is it their preference between in person or virtual?

1 **DEPUTY CLERK:** Whatever the parties prefer.

2 **THE COURT:** Okay. Thank you.

3 And that can be virtual or in person, depending on
4 the parties' preference. Should they contact his courtroom
5 deputy to confirm that preference or tell us now?

6 **DEPUTY CLERK:** Tell us now.

7 **THE COURT:** Okay. Thank you.

8 **MS. VAUGHN:** The government has no preference,
9 Your Honor. We are happy to do whatever.

10 **MR. SCHOEN:** We would prefer virtual, Your Honor.

11 **THE COURT:** Okay. Thank you.

12 So the next court date before Judge Nichols will
13 be November 18th at 11 a.m., and we will convey to his
14 courtroom deputy that the request will be a virtual hearing.
15 Thank you.

16 **MR. SCHOEN:** I assume, by the way, it's not going
17 to cause any additional inconvenience if we do it virtual?

18 **DEPUTY CLERK:** No, sir.

19 **MR. SCHOEN:** Okay.

20 **THE COURT:** Does the United States have any
21 requests with respect to conditions of release pending trial
22 or any contention that detention is appropriate in this
23 matter?

24 **MS. VAUGHN:** No, Your Honor. The government
25 agrees with the recommendation of Pretrial Services and

1 thinks that's sufficient in this case.

2 **THE COURT:** So I've reviewed the pretrial report.
3 Pretrial Services' recommendation is general supervision,
4 reporting to pretrial services weekly by telephone,
5 verifying the address with pretrial services immediately or
6 within the next business day, living at the address
7 indicated in the pretrial report, surrendering passports to
8 pretrial services, not obtaining a passport or other
9 international travel document and not applying for or
10 possess any -- possessing any passport. And then also to
11 notify pretrial services in advance of all travel outside of
12 this district; and that court approval would be necessary
13 for travel outside of the continental United States.

14 Mr. Sidbury, does that accurately summarize the
15 recommendations of Pretrial Services?

16 **PROBATION:** Andre Sidbury for Pretrial Services.
17 Yes, Your Honor. And he has verified his address and
18 Pretrial Services is in possession of his passport.

19 **THE COURT:** Thank you.

20 Does the defense object to any of these
21 recommended conditions of release?

22 **MR. SCHOEN:** No, Your Honor.

23 **THE COURT:** Thank you.

24 **MR. SCHOEN:** Thank you.

25 **THE COURT:** I conclude that the conditions of

1 release recommended by Pretrial Services in which the United
2 States concurs and to which the defense does not object are
3 appropriate release conditions to govern Mr. Bannon pending
4 trial.

5 Mr. Sidbury, do you -- (brief pause) -- I have a
6 partially-completed form. I do need to pass this back to
7 pretrial to be signed? Or completed? Sorry. Or I do fill
8 in the rest?

9 **PROBATION:** Just fill in the rest, Your Honor.

10 **THE COURT:** Okay. Thank you. Okay.

11 So the release conditions are as I had indicated.
12 General supervision with weekly telephone reporting to
13 Pretrial Services, continuing to reside at the address
14 provided in the pretrial report. I understand the
15 passport's already been surrendered.

16 An additional condition will be to not obtain
17 another passport or international travel document and not
18 apply for or possess a passport. And then as I indicated,
19 providing notice to pretrial in advance of travel outside of
20 D.C. and court approval being necessary for travel outside
21 of the continental United States.

22 Mr. Schoen or Mr. Corcoran, are there any aspects
23 of those conditions of release that I plan to set that you
24 need me to further explain to your client?

25 **MR. SCHOEN:** No, Your Honor.

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THE COURT: And, Mr. Bannon, can you confirm you heard and understood the release conditions?

THE DEFENDANT: I did, Your Honor.

THE COURT: Thank you.

(Proceedings concluded at 2:18 p.m.)

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C E R T I F I C A T E

I, **Lorraine T. Herman, Official Court**

Reporter, certify that the foregoing is a true and correct transcript of the audio-recorded proceedings in this matter, audio recorded on October 22, 2022, and transcribed from the audio recording to the best of my ability, and that said transcript has been completed with the audio recording.

January 24, 2023

DATE

/s/

Lorraine T. Herman