

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Before The Honorable Lauren Fleischer Louis, Magistrate Judge

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	NO. 22-CR-20104-JEM
)	
ARCANGEL PRETEL ORTIZ, WALTER)	
VEINTEMILLA, AND FEDERICK)	
JOSEPH BERGMANN, JR.,)	
)	
Defendants.)	
_____)	

Miami, Florida
Friday, February 17, 2023

**TRANSCRIPT OF OFFICIAL ELECTRONIC SOUND RECORDING
OF PROCEEDINGS**

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4 **THE CLERK:** Calling United States versus
5 Walter Veintemilla, Case Number 22-20104-Criminal-Judge
6 Martinez.

7 **THE COURT:** Mr. Bell, should we also call your client
8 at the same time?

9 **MS. KUDMAN:** Good morning, Your Honor.

10 **MR. RUSSO:** Good morning, Your Honor.

11 **THE COURT:** Good morning.

12 Mr. Bell, do you want us to call -- are you going to do
13 the hearing together?

14 **MR. BELL:** If that's what the Court is doing, that's
15 what I'll do.

16 **THE COURT:** No, no, no. What's your preference, sir?

17 **MR. BELL:** I'd like a hearing just for my client. He
18 isn't charged with the same offenses.

19 **THE COURT:** Okay. No problem.

20 **MS. KUDMAN:** Your Honor, I have several documents that
21 are just being organized right now.

22 **THE COURT:** Could I get you to make your appearance on
23 the record?

24 **MS. KUDMAN:** Yes.

25 Tama Beth Kudman on behalf of Mr. Veintemilla.

1 **THE COURT:** Thank you.

2 Just because I know you doesn't mean that the record does.

3 **MS. KUDMAN:** Yes, I understand. Thank you.

4 **THE COURT:** Okay. All right.

5 **MS. KUDMAN:** So if we can pass to Mr. Bell while we
6 finish that --

7 **THE COURT:** Oh.

8 **MS. KUDMAN:** -- organization of those last couple of
9 documents, I would appreciate it.

10 **THE COURT:** Of course. The deputy --

11 **MS. KUDMAN:** Thank you, Your Honor.

12 **MR. BELL:** Thank you, Your Honor.

13 **THE COURT:** -- marshals love this kind of exercise in
14 the morning.

15 Thank you, sirs.

16 **THE CLERK:** Calling United States versus
17 Federick Joseph Bergmann, Jr., Case Number
18 22-20104-Criminal-Judge Martinez.

19 Counsel --

20 **MS. CASTRO:** Monica --

21 **THE CLERK:** -- please announce your appearances for
22 the record.

23 **MS. CASTRO:** Monica Castro, Andrea Goldbarg,
24 Emma Ellenrieder, and Frank Russo for the United States.

25 Good morning, Your Honor.

1 **MS. GOLDBARG:** Good morning, Your Honor.

2 **THE COURT:** Good morning.

3 **MR. BELL:** Hello again, Judge. How are you?

4 **THE COURT:** Mr. Bell.

5 Well. Thank you for asking. How are you, Mr. Bell?

6 **MR. BELL:** I am well. Thank you, Judge.

7 Henry Bell --

8 **THE COURT:** Okay.

9 **MR. BELL:** -- on behalf of the defendant Mr. Bergmann,
10 who is, of course, standing to my right.

11 **THE COURT:** Okay. Good morning, Mr. Bergmann.

12 I've got you on this morning for both arraignment and
13 pretrial detention.

14 Mr. Bell, are we ready for the arraignment?

15 **MR. BELL:** Yes, Judge.

16 **THE COURT:** All right. Ready when you are.

17 **MR. BELL:** Judge, we acknowledge receiving a copy of
18 the indictment. We waive its formal reading in open court, ask
19 that the Court enter a plea of not guilty as to all the counts
20 in that indictment lodged against Mr. Bergmann. We ask the
21 Court issue a standing discovery order, demand a trial by jury
22 and plea of not guilty.

23 **THE COURT:** The Court will accept that not-guilty
24 plea, and we've entered the standing discovery order.

25 Mr. Bergmann, this case has been indicted before

1 Judge Martinez, and I'll refer you to him after all
2 proceedings -- I'm sorry -- for all proceedings after today's
3 detention hearing.

4 And -- okay. With that, Mr. Bell, are you ready?

5 **MR. BELL:** I am, Judge.

6 **THE COURT:** Okay.

7 **MR. BELL:** Thank you.

8 **MS. CASTRO:** Thank you, Your Honor.

9 I'll begin the factual proffer, as I noted, by adopting
10 the facts that are present in the complaint with respect to
11 Mr. Bergmann, as well as the complaint with respect to
12 Mr. Ortiz, Mr. Veintemilla, and Mr. Intriago.

13 Turning to an overview of -- of some of the salient facts,
14 Your Honor, on July 7th of 2021, the President of Haiti --

15 **THE COURT:** Will you slow down for me?

16 **MS. CASTRO:** I apologize, Your Honor.

17 On July 7th of 2021, the President of Haiti,
18 Jovenel Moïse, was assassinated at his home in Port-au-Prince,
19 Haiti. That morning, armed assailants wearing ballistic vests
20 entered the President's home, and he was shot 12 times and died
21 as a result. His wife, the First Lady, survived but also
22 suffered multiple gunshot wounds.

23 The investigation into the events of July 7th revealed
24 that President Moïse's assassination was, in fact, the
25 culmination of months of planning, spearheaded by

1 Arcangel Pretel Ortiz and Antonio Intriago, as principals of
2 related South Florida companies, collectively referred to as
3 CTU, and funded by Worldwide Capital Lending Group through its
4 principal, Mr. Walter Veintemilla.

5 Ortiz, Intriago, and Veintemilla were each motivated by
6 the expectation of financial opportunities in Haiti should they
7 succeed in ousting President Moïse and replacing him with their
8 intended successor, who they expected could award them
9 lucrative contracts should that successor come into power.

10 Initially, that intended successor was Christian Sanon, a
11 Haitian political hopeful who opposed President Moïse's
12 administration and a close associate of Federick Bergmann, Jr.

13 Mr. Bergmann contributed financially to the conspiracy and
14 helped illegally export the very ballistic vests that the
15 assassins wore during their raid in the President's home that
16 resulted in his murder. The evidence shows that when
17 Mr. Bergmann shipped these vests, he well knew they would be
18 used in furtherance of a conspiracy to remove Mr. Moïse from
19 the Presidency.

20 Now, the events leading to the President's assassination
21 date back to at least February of 2021. In approximately
22 February 2021, Ortiz and Intriago, as principals of CTU, agreed
23 to support Sanon in his efforts to become President of Haiti.

24 As for Worldwide and its principal, Veintemilla, by the
25 end of April 2021, Veintemilla had agreed to finance CTU's

1 support of Sanon and extended a 175,000-dollar line of credit
2 to CTU.

3 Witness interviews, flight records, and seized electronic
4 evidence confirmed that CTU and Worldwide hosted meetings
5 amongst coconspirators in April and May of 2021 here in
6 South Florida.

7 **THE COURT:** So wait, Ms. Castro. A corporation can't
8 act but through its principals. What do you mean when you say
9 "CTU and Worldwide"?

10 **MS. CASTRO:** When I refer --

11 **THE COURT:** Are -- do you mean the individuals, or do
12 you mean their place of business?

13 **MS. CASTRO:** When I refer to CTU and Worldwide, I am
14 referring to their principals, Your Honor. That would be
15 Antonio Intriago and Arcangel Ortiz with respect to CTU and
16 Mr. Veintemilla with respect to Worldwide. And I will do my
17 best to be clear about that as I move forward in the proffer,
18 Your Honor.

19 Turning back to these meetings that were occurring in
20 South Florida, the evidence shows that they were attended by
21 Ortiz, Intriago, Veintemilla, and Mr. Bergmann, along with
22 Sanon and other coconspirators.

23 At these meetings, the conspirators talked about how they
24 could forcibly remove President Moïse and install Sanon as
25 President. They also discussed how to acquire weapons and

1 military equipment to facilitate their plan to remove
2 President Moïse and replace him with Sanon.

3 **THE COURT:** Can I ask you to pause again?

4 **MS. CASTRO:** Yes.

5 **THE COURT:** Two things that are quite generalized.
6 When you say "they" and "the meetings," with respect to this
7 defendant, are you in a position to tell me what meetings he
8 attended?

9 **MS. CASTRO:** Your Honor, we are able to say that he
10 was in attendance in these meetings. And we know, from witness
11 statements, what the subject of these meetings were. I'm not
12 in a position to provide specific dates of the meetings he was
13 present at.

14 **THE COURT:** Somewhere between February and July?

15 **MS. CASTRO:** I know he -- I apologize. I should
16 correct myself. Between April and May 2021 as to the meetings
17 that Mr. Bergmann attended.

18 **THE COURT:** Go ahead.

19 **MS. CASTRO:** Now, as to how to remove President Moïse,
20 the conspirators' plan vacillated from fomenting a public
21 uprising that would force the President out of power, to
22 physically removing him from power by kidnapping him and, of
23 course, ultimately to an assassination.

24 From early on, the principals of CTU, Mr. Ortiz and
25 Mr. Intriago, retained and, with financial support from

1 Veintemilla, transported at least 20 ex-soldiers from the
2 Colombian military to Haiti to assist in their plot to remove
3 President Moïse from power.

4 As the conspiracy progressed, Ortiz, Intriago,
5 Veintemilla, and Mr. Bergmann exchanged a number of written and
6 audio communications in furtherance of their operational
7 planning. These communications show, by way of example -- and
8 I'll note many are enumerated in the complaint.

9 But they show, by example -- for example, Mr. Ortiz
10 directing members of the conspiracy in Haiti, including
11 Mr. James Solages and Herman Rivera, both of whom were at the
12 President's home at the night of the assassination.

13 April messages also show the conspirators discussing the
14 weaponry and ammunition they would need to carry out their
15 operation in Haiti, including, as laid out in a document
16 titled, quote, "Fighter for the Liberation of Haiti," a request
17 for machine guns, hand grenades, more than 20,000 rounds of
18 ammunition, and rocket-propelled grenades.

19 Discussions about conducting surveillance at the
20 President's home were also present in these communications,
21 with Mr. Ortiz specifically directing Mr. Solages to conduct
22 the surveillance with his own eyes and, in similar
23 communications or close-in-time communications with
24 Mr. Solages, Mr. Ortiz referring to deleting compromising
25 messages and mentioning to Mr. Solages that there was a risk of

1 potential criminal exposure for their planning.

2 The communications also show Mr. Ortiz distributing a
3 whiteboard that featured an assault plan on the
4 Presidential Palace to conspirators within the group, including
5 Mr. Rivera and Mr. Veintemilla.

6 The whiteboard described the use of, quote, "snipers" and
7 referenced a, quote, "militia team" that comprised ten
8 warriors, neutralizers -- I'm sorry -- ten warriors, dash,
9 neutralizers and shows the location of, quote, "palace
10 security."

11 **THE COURT:** Pause again, Ms. Castro.

12 **MS. CASTRO:** Yes, Your Honor.

13 **THE COURT:** You're in a position to proffer that
14 Mr. Bergmann received --

15 **THE INTERPRETER:** Okay.

16 **THE COURT:** -- that whiteboard?

17 **MS. CASTRO:** Your Honor, not with respect to this
18 whiteboard. I will --

19 **THE COURT:** Okay.

20 **MS. CASTRO:** Oh.

21 **THE INTERPRETER:** Yeah. So --

22 **MS. CASTRO:** Your Honor, one quick note. I'm advised
23 that the interpreter was not translating for Mr. Ortiz during
24 the proffer, which we were intending to use as a singular
25 proffer.

1 **THE COURT:** Take it from the top when the time comes.

2 **MS. CASTRO:** Understood, Your Honor.

3 **THE COURT:** I appreciate letting you know that for the
4 record.

5 **MS. CASTRO:** Yeah.

6 **THE COURT:** Okay.

7 **MS. CASTRO:** Understood, Your Honor. We'll take it
8 from the top at that point.

9 To answer Your Honor's -- would we be translating from
10 this point forward so that we can know? Okay.

11 **THE INTERPRETER:** Are you going to start from the
12 beginning?

13 **THE COURT:** No, not right now. Not right now. We're
14 going to keep going with this hearing.

15 **THE INTERPRETER:** Okay. All right.

16 **THE COURT:** Okay.

17 **MS. CASTRO:** Your Honor, I apologize. I believe
18 Your Honor had asked about the whiteboard.

19 **THE COURT:** I did, but I think you've already answered
20 me that you're not in a position to proffer that Mr. Bergmann
21 received the whiteboard.

22 **MS. CASTRO:** I don't have evidence that Mr. Bergmann
23 received that whiteboard, Your Honor.

24 **THE COURT:** Okay.

25 **MS. CASTRO:** Okay. The electronic evidence shows that

1 Ortiz played a managerial role amongst the coconspirators. And
2 the messages show Ortiz, for example, directing Mr. Solages to
3 coordinate with, quote, "Tony," which was believed to be
4 Mr. Intriago, who also himself received a message from a
5 codefendant, from Codefendant Solages, confirming that Solages
6 and others were meeting to conduct hitting plans.

7 And so this is a message -- oh. I'm being asked to slow
8 down for the interpreter.

9 (Laughter.)

10 **MS. CASTRO:** I apologize for the interpreter.

11 Referring back to the hitting plans, this was a message
12 that was sent to Tony Intriago, where Mr. Solages, who is a
13 codefendant in this case -- he's been charged with the very
14 same conduct that Mr. Ortiz, Mr. Veintemilla, and Mr. Intriago
15 were charged with -- sent to Mr. Intriago while he was on the
16 ground in Haiti.

17 And he sends it alongside an image of himself meeting with
18 other known coconspirators in Haiti, and he stated to
19 Mr. Intriago, "Conducting the hitting plans now."

20 Speaking to Mr. Intriago's playing a managerial role akin
21 to that of Mr. Ortiz, Mr. Intriago did respond to that message,
22 asking, "Is there any other information we need to know?" and
23 "Great."

24 Other communications show Veintemilla, Intriago, and
25 Bergmann discussing obtaining weapons and ammunition for

1 conspirators in Haiti. This was seen in a June 3rd
2 communication -- this is at least a full month before the
3 President's assassination -- where Mr. Veintemilla confirmed to
4 Mr. Bergmann that he had provided \$15,000 for, quote, "screws
5 and nails."

6 Now, as outlined in the complaint, these were coded terms
7 that the conspirators used to mask their discussion about
8 obtaining weapons and ammunition for their efforts in Haiti.

9 By June of 2021, the messages amongst the coconspirators
10 confirmed an impatience with the delay in executing Moïse's
11 removal, particularly as funds continued to be expended. These
12 included messages in early June, where Veintemilla messaged
13 Ortiz about, quote, "giving the order." And Ortiz messaged
14 coconspirators, expressing his concern -- concern that the
15 group was in, quote, "red numbers" and needed to go forward.

16 These messages were followed by an audio message where
17 Veintemilla insisted to Solages that, quote, "The plan has to
18 be simultaneous. It cannot be just 'hit the rat,'" a known
19 term that these individuals used to refer to Mr. Moïse during
20 their planning.

21 Going back to the message, Veintemilla stated, "It cannot
22 be just 'hit the rat.' That's not how that's going to work
23 because then we're going to look horrible."

24 Solages responded, "Understood" and "Roger that" -- "Roger
25 that."

1 Around the same time, Veintemilla messaged both Solages
2 and Mr. Bergmann, cautioning that the group had, quote, "lost
3 the element of surprise," that they were risking people, quote,
4 "informing the rat" and that the party had to go forward.

5 The references to the party appear throughout the messages
6 exchanged amongst the coconspirators, and it's been identified
7 by law enforcement as the term that they were using for their
8 operation against President Moïse.

9 The same day as this communication regarding the party
10 going forward, Bergmann messaged Sanon, confirming shipment of
11 CTU-branded armored vest -- vests to Haiti for use by the
12 Colombian nationals that had been retained for the group's work
13 in Haiti.

14 Records from the shipment show that Bergmann's signature
15 and -- I'm sorry -- show Bergmann's signature and affirmation
16 that the contents of the shipping labels were true, but they
17 were not, as Bergmann labeled the vests "Medical X-ray Vests"
18 and lied about their value.

19 Communications related to the shipment show that Bergmann
20 and Intriago discussed how best to lie about the contents of
21 the shipment, with Intriago suggesting that they could
22 potentially call the vests -- again, these ballistic vests --
23 paintball protection vests and Mr. Bergmann responding, "I
24 don't think they'll have a problem having my research company
25 ship X-ray protective vests."

1 The same day the vests were shipped, Mr. Bergmann also
2 texted Sanon, directing him, quote, "Please explain to
3 Individual 1 we have to use these type of vests so health care
4 providers can be protected from harmful effects of X-rays,"
5 question mark.

6 Son -- Sanon responded, "Okay. I will let him know."

7 Additional communications show more efforts to secure
8 equipment after the ballistic vests were shipped by
9 Mr. Bergmann. The same day the vests were shipped, Solages
10 texted Intriago asking for 150 to 200 zip-tied handcuffs.
11 Intriago replied with a photograph of zip-tied handcuffs
12 presumably and said, "No ankle."

13 **THE COURT:** "No angle"?

14 **MS. CASTRO:** I'm sorry. "No ankle."

15 **THE COURT:** Thank you.

16 **MS. CASTRO:** Days later -- we're now at about
17 June 15th, 2021 -- Rivera sent Ortiz a text message stating, in
18 substance, that the Colombian national -- nationals needed a
19 battering ram to breach doors as well as black caps, cash,
20 balaclavas, gun holsters, and other materials.

21 And just to add additional context with respect to
22 Mr. Rivera, this is another named codefendant in this case.
23 And he's charged with the same conduct as Mr. Ortiz,
24 Mr. Veintemilla, and Mr. Intriago, which is the conspiracy to
25 kill and kidnap, providing material support to the same, and

1 conspiring to provide material support to the same.

2 **THE COURT:** Can I interrupt you to ask another
3 question?

4 **MS. CASTRO:** Yes.

5 **THE COURT:** I'm just trying to understand the
6 chronology with respect to the vest shipment.

7 **MS. CASTRO:** Yes.

8 **THE COURT:** The vests were shipped in May; is that
9 right?

10 **MS. CASTRO:** The vests were shipped in June. The
11 specific shipment we were discussing was on June 10th of 2021.

12 **THE COURT:** Okay. So Paragraph 13 -- 14 of the
13 complaint --

14 **MS. CASTRO:** Oh. If I may clarify, is it --

15 **THE COURT:** Well, it just -- the -- the text you just
16 proffered, Mr. Bergmann's half, which says to Sanon that they
17 were medical X-ray vests, and his response, "I got it. Thank
18 you."

19 And I'm trying to contextualize, from the timing of the
20 shipment, whether that means, like, "I understand" or "I
21 received the shipment."

22 **MS. CASTRO:** Your Honor, we've interpreted that
23 message to mean "I understand," as in Mr. Sanon is now aware of
24 what terminology will be used to mislabel these vests as they
25 get shipped.

1 **THE COURT:** So the evidence doesn't show that the
2 vests were already there?

3 **MS. CASTRO:** These vests were not there at that stage.
4 They were shipped the next day after that vest --

5 **THE COURT:** Thank you.

6 **MS. CASTRO:** -- after that message.

7 **THE COURT:** Okay. All right. Keep going.

8 **MS. CASTRO:** I had begun to give Your Honor some
9 additional context with respect to Mr. Rivera. His name may
10 appear throughout.

11 The investigation has shown that Mr. Rivera was one of
12 these Colombian nationals that was retained by CTU. He arrived
13 in Haiti and was essentially tasked with being one of the
14 leaders of the other Colombian men there on the ground, and he
15 reported to Ortiz, as shown in electronic communications.

16 I just wanted to add that context because I just mentioned
17 a message where he asked Mr. Ortiz for a battering ram and
18 other equipment.

19 **THE COURT:** Okay.

20 **MS. CASTRO:** Also, in around -- in or around mid-June
21 of 2021, the conspirators discuss that Sanon lacked the
22 necessary qualifications to serve as President of Haiti.

23 So around this time, Ortiz, Intriago, and Veintemilla
24 began to support a second individual, that's identified in the
25 complaint as Individual 2, as the intended successor for

1 President Moïse. But for them, the motivation of financial
2 gain did remain constant.

3 Through their companies CTU and Worldwide, Ortiz,
4 Intriago, and Veintemilla contracted with Individual 2, as they
5 had with Sanon, to serve their financial interests once
6 Individual 2 was installed as President. They did so by
7 entering into these purported consultation agreements with
8 Individual 2, in which Individual 2 promised them future
9 business contracts.

10 Continued discussions around operational planning are
11 reflected in June 20th, 2021, messages that show Solages told
12 Ortiz that they, being the conspirators, need ten DEA Velcro
13 patches, front and back, and 26 masks, full face cover, to
14 arrive no later than June 22nd, to which Ortiz responded,
15 quote, "Costume party," an apparent acknowledgment that these
16 patches would be used by individuals that, in fact, were not
17 DEA.

18 In this regard, it's notable that Haitian law enforcement
19 also recovered DEA patches from the kind -- crime scene after
20 President Moïse's assassination. And, of course, Mr. Solages,
21 one of the individuals who reported directly to Mr. Ortiz, has
22 been identified by witnesses as shouting, "DEA" as he breached
23 the President's home on the night of the assassination.

24 As the operation or, as the conspirators called it, the
25 party neared, the conspirators also took steps to immunize

1 their actions in Haiti. On June 28th of 2021, Solages flew
2 from Haiti to the Southern District of Florida to deliver a
3 purported Haitian immunity agreement to Ortiz, Intriago, and
4 Veintemilla.

5 Messages show Ortiz circulating the agreement to members
6 of the conspiracy. The document was dated and ostensibly
7 executed June 22nd of 2021, weeks before the President's
8 assassination and months into the conspirators' operational
9 planning in Haiti.

10 **THE COURT:** So the evidence doesn't show that Bergmann
11 received a copy of the --

12 **MS. CASTRO:** That's correct, Your Honor. I don't have
13 any evidence showing that Mr. Bergmann received a copy of this
14 immunity agreement.

15 **THE COURT:** Okay.

16 **MS. CASTRO:** This document claimed that
17 President Moïse, quote, "illegally and unconstitutionally
18 extended his Presidential mandate" and purported to request
19 CTU's, as an agency, urgent help and assistance. It promised,
20 quote, "immunity, protection, and security to their actions in
21 our favor," "our favor" being the signatories of the purported
22 immunity agreement.

23 According to messages sent amongst the coconspirators
24 regarding this agreement, the conspirators believed that this
25 document would protect them from prosecution in Haiti once

1 Individual 2 was sworn in as President.

2 By July 6th, 2021, over 20 individuals from Colombia had
3 traveled to Haiti to participate in the operation to remove
4 President Moïse by either kidnapping or killing him. Their
5 travel was arranged for and funded by Mr. Veintemilla.

6 On or about July 6th of 2021, Ortiz and Intriago, in a
7 series of text messages, in substance, asked Veintemilla to pay
8 these Colombian nationals.

9 Veintemilla responded, in substance, that these things
10 took too long -- that things took too long, and there were no
11 money or investors until Individual 2 was sworn into the
12 office. He essentially told Mr. Ortiz that the operation had
13 failed.

14 Mr. Ortiz responded, in substance, by stating he did not
15 have permission to fail. And he reassured Mr. Veintemilla
16 that, by the end of the following day, Mr. Veintemilla would
17 see things better, that things were just getting started. Of
18 course, President Moïse was assassinated the very next day.

19 On July 6th, 2021, on the eve of the assassination,
20 conspirators met prior to the assassination at a nearby
21 residence.

22 **THE COURT:** Who? Who are "conspirators"?

23 **MS. CASTRO:** These would be the conspirators that were
24 in Haiti. These would be Solages, Rivera, Mr. John, who is
25 also an indicted conspirator, not the con- -- not the

1 defendants that are here today.

2 **THE COURT:** Okay.

3 **MS. CASTRO:** The defendants that are here today were
4 not in Haiti on the day of the assassination.

5 Firearms and equipment were distributed, and Solages
6 announced to the room that their mission was to kill the
7 President.

8 According to witnesses, on July 7th, 2021, conspirators
9 drove a convoy to President Moïse's residence. Again, these
10 are just the individuals in Haiti. Once the group arrived
11 outside the residence, Solages falsely announced to those
12 inside that they were engaged in a, quote, "DE operation" --
13 "DEA operation" in an attempt to ensure compliance by the
14 President's security and other civilians.

15 A subset of Colombian conspirators entered the President's
16 residence and assassinated him, leaving him with 12 gunshot
17 wounds and his wife seriously injured.

18 Hours after the assassination, still on July 7th of 2021,
19 Bergmann texted an individual, quote, "It happened," and,
20 quote, "Battle right now."

21 This text was sent to the same person who, in messages
22 that dated back to June 2nd of 2021, asked Bergmann, quote,
23 "What time is the next coup meeting?" Bergmann did not respond
24 to the reference about a coup with any shock or surprise, just
25 as he did not respond to the news of a, quote, "battle" at the

1 President's home with any shock or surprise.

2 After the assassination, Bergmann texted Sanon a news
3 article stating that President Moïse had been murdered. He
4 asked Sanon if Sanon was okay. When Sanon confirmed, Bergmann
5 asked about, quote, "the guys," presumably the Colombian
6 nationals who had assassinated the President, stating, "I have
7 been so worried."

8 Sanon texted that there was a diplomatic vehicle that
9 crossed over to reach them, again, "them" being understood --
10 understood to be the Colombian nationals in Haiti, apparently
11 indicating an attempt to helping extract these individuals.

12 Bergmann did not miss a beat, however, on seeking to
13 continue the coup efforts, stating, "It's time for people to
14 hit the streets."

15 And the evidence in this case has shown that part of the
16 planning here was that the conspirators would be able to foment
17 a public uprising that would offer some cover to what happened
18 with respect to the President's removal, kidnapping, or
19 assassination. And that is the context within which we read
20 the reference to "Time for people to hit the streets."

21 When Sanon replied, saying that the leaders are working on
22 that, Bergmann confirmed, "We are all on standby once you know
23 what is going on."

24 A search history the day following the assassination
25 showed that Mr. Bergmann began Googling the Florida statute

1 related to the Baker Act. And I raise that because, as I
2 proffered during Mr. Bergmann's initial appearance,
3 Mr. Bergmann also began to talk about the Baker Act when he was
4 taken into custody just earlier this week, specifically
5 directing his wife, in the presence of agents, after he had
6 learned that there was a warrant for his arrest, that she
7 needed to immediately Baker Act him.

8 Additional communications after the assassination show
9 Mr. Bergmann talking about trying to get funding presumably,
10 again, to the people in Haiti, the Colombian nationals. He
11 made reference to the, quote, "14 security people" and provided
12 a budget of about \$75,000 per month to the individual he was
13 texting. He said, "I wish I could continue to fund this, but I
14 just can't."

15 With respect to recent events in Haiti, he said, "We are
16 on the eight-yard line, close to the goal line to save these
17 poor souls. I hope you guys can help."

18 **THE COURT:** Who is he messaging this to?

19 **MS. CASTRO:** Your Honor, I don't want to name this
20 individual because they're not part of the charging instrument.

21 **THE COURT:** It's not somebody I've already heard?

22 **MS. CASTRO:** No, Your Honor. It's a third party.

23 **THE COURT:** It's -- okay.

24 **MS. CASTRO:** And so --

25 **THE COURT:** Okay. If it's not one of the -- then do

1 it again. What are the messages?

2 **MS. CASTRO:** Yes, Your Honor.

3 The point -- the point the Government was seeking to make
4 here was that he was seeking funding, as we understand it, for
5 the individuals that were still trapped in Haiti that have been
6 part of the conspiracy.

7 **THE COURT:** And the date on those communications?

8 **MS. CASTRO:** These are after the assassination on the
9 evening of July 7th, 2021.

10 **THE COURT:** Same day. Okay.

11 **MS. CASTRO:** The assassination happened in the very
12 early morning hours of July 7th, 2021.

13 **THE COURT:** Go ahead.

14 **MS. CASTRO:** Ortiz, Veintemilla, Mr. Bergmann, and
15 Mr. -- Mr. Intriago were all interviewed after the
16 assassination. Ortiz, for his part, denied any involvement in
17 the arrest or ever seeing the immunity -- immunity agreement.

18 **THE COURT:** When were these interviews?

19 **MS. CASTRO:** I don't have the -- I -- if I can have
20 one moment to --

21 **THE COURT:** I'll tell you that it's going to be a
22 question in my mind that two and a half years -- two -- a year
23 and a half later, where are you going with -- you know, they've
24 been at large, and what's the evidence between here and there?

25 So were these interviews immediately after? Recently?

1 **MS. CASTRO:** Your Honor --

2 **THE COURT:** When -- when would the risk of flight have
3 been triggered here?

4 **MS. CASTRO:** Your Honor, these -- these interviews
5 were immediately after, but the defendants candidly provided
6 false exculpatories and lied about their involvement in the
7 assassination.

8 So the expectation was that these individuals had a false
9 sense of security that perhaps their lies had been believed by
10 law enforcement.

11 **THE COURT:** I know that you want one for all, but will
12 you proffer with respect to Mr. Bergmann?

13 **MS. CASTRO:** Yes, Your Honor, of course.

14 With respect to Mr. Bergmann, the salient point as to his
15 statement, which I believe happened a couple of months -- there
16 was some time lag in talking to him, Your Honor, I believe,
17 because he had been committed.

18 We do see, from the pretrial report, that Mr. Bergmann
19 committed himself, or was committed, in July of 2021. So I
20 know that there was some initial difficulty speaking to
21 Mr. Bergmann.

22 The most salient point that I would raise for
23 Mr. Bergmann's statement was that he lied to law enforcement
24 and stated that it was, in fact, the shipping company who had
25 told him to lie about the armored vests that he shipped to

1 Haiti.

2 He -- and that is demonstrably false, based on the
3 communications we already referenced, where Mr. Bergmann is
4 seen, in discussions with Mr. Intriago, debating whether they
5 should mislabel these as paintball or mislabel these as medical
6 X-ray vests.

7 We've also spoken to a witness from that shipping company,
8 who denied that claim.

9 **THE COURT:** Denied which claim?

10 **MS. CASTRO:** This claim that it was the shipping
11 company who told Mr. Bergmann to put false information on the
12 shipping form.

13 **THE COURT:** Okay.

14 **MS. CASTRO:** I did get confirmation that
15 Mr. Bergmann's first interview was July 12th of 2021.

16 **THE COURT:** July what?

17 **MS. CASTRO:** July 12th of 2021.

18 Oh. And I'm being advised he was committed immediately
19 after that interview. So I apologize. I need to correct
20 myself on that one.

21 **THE COURT:** I appreciate it because I was struggling
22 to figure out how that timing worked.

23 **MS. CASTRO:** Yes. I apologize, Your Honor.

24 Your Honor, I think that concludes the factual proffer.
25 There are certainly specific references to additional messages

1 that I tried to avoid overburdening the factual proffer with
2 today, but we're happy to refer to the complaint.

3 Of course, it's open for cross-examination as to our
4 witness. And if there's anything we can provide clarity on for
5 the Court, we will certainly do so.

6 **THE COURT:** Okay. Well, thank you, Ms. Castro.

7 **MS. CASTRO:** Thank you, Your Honor.

8 **THE COURT:** All right. Mr. Bell, your pleasure?

9 **MR. BELL:** I'd like to cross-examine the agent,
10 please.

11 **THE COURT:** Have him come forward.

12 **MS. CASTRO:** Yes, Your Honor.

13 The Government tenders Special Agent Michael Ferlazzo from
14 the Federal Bureau of Investigation for questioning.

15 **COURT SECURITY OFFICER:** Remain standing to be sworn
16 in.

17 **THE CLERK:** Please raise your right hand.

18 **MICHAEL FERLAZZO,**

19 called as a witness for the Government, having been duly sworn,
20 testified as follows:

21 **THE WITNESS:** I do.

22 **THE CLERK:** Thank you. Please be seated.

23 Speak into the microphone. State your name. Can you
24 spell your last name for the record and tell us where you're
25 employed?

FERLAZZO - CROSS / BELL

1 **THE WITNESS:** Mike Ferlazzo with the FBI,
2 F-e-r-l-a-z-z-o.

3 **CROSS-EXAMINATION**

4 **BY MR. BELL:**

5 **Q.** Good morning, Agent Ferlazzo. How are you?

6 **A.** I'm well. How are you?

7 **Q.** Did you hear the proffer provided by Ms. Castro?

8 **A.** I did.

9 **Q.** Do you adopt that as your testimony?

10 **A.** I do, just one slight addition. The email that
11 Mr. Bergmann sent to the unnamed individual was also sent to
12 Mr. Sanon.

13 **Q.** And when was that email sent?

14 **THE COURT:** I'm sorry? Wait. I can't hear you. It
15 was also sent --

16 **THE WITNESS:** To Christian Sanon, Your Honor.

17 **THE COURT:** Thank you.

18 **THE WITNESS:** And that was sent the evening of
19 July 7th.

20 **BY MR. BELL:**

21 **Q.** So I take it you're familiar with the criminal complaint
22 filed in -- in Mr. Bergmann's case?

23 **A.** And also -- one more answer to your other question. It's
24 just the time frame for Mr. Sanon to become President was
25 stated as February. It was a little up in the air at that

FERLAZZO - CROSS / BELL

1 time. We might hold a different position. I'd be more
2 comfortable with March.

3 **THE COURT:** Before you ask your next question,
4 whoever's cell phone is sitting next to the microphone, you're
5 all I hear. Can you please turn it off.

6 Go ahead, Mr. Bell.

7 **MR. BELL:** It's not mine, Judge.

8 **THE COURT:** I -- yeah. I don't think you're close
9 enough to the microphone, but --

10 **BY MR. BELL:**

11 **Q.** I take it, Agent, you're familiar with the criminal
12 complaint lodged against Mr. Bergmann, even though you're not
13 the affiant in that?

14 **A.** I am.

15 **Q.** So you're familiar with all the facts set forth in there?

16 **A.** I do, and I accept them.

17 **Q.** And, obviously, you're familiar with the indictment;
18 right?

19 **A.** I am.

20 **Q.** And you're familiar with the charges brought against
21 Mr. Bergmann?

22 **A.** I am.

23 **Q.** And you're familiar with how they're different from the
24 charges brought against the other defendants?

25 **A.** That's correct.

FERLAZZO - CROSS / BELL

1 Q. All right. So were you involved in Mr. Bergmann's arrest
2 this week?

3 A. I was not. I was down here.

4 Q. So you weren't there?

5 A. I was not in Tampa.

6 Q. Okay. Have you spoken to agents who were there?

7 A. I have.

8 Q. What time did they arrive there?

9 A. I think it was just before 6:00 a.m.

10 Q. Okay. They knocked on the door?

11 A. They did.

12 Q. He answered the door?

13 A. I think his wife initially answered, and then he came to
14 the door.

15 Q. Okay. And did he threaten the agents in any way?

16 A. He did not.

17 Q. Right.

18 He didn't -- he wasn't verbally abusive to them, was he?

19 A. No.

20 Q. He did not do anything in order to put them at risk in any
21 way, did he?

22 A. He did not.

23 Q. He submitted to their authority?

24 A. He did.

25 Q. And he was arrested?

FERLAZZO - CROSS / BELL

1 **A.** He was.

2 **Q.** Okay. Did he act in any way, when he was arrested, to
3 suggest that he might flee or leave the jurisdiction?

4 **A.** He was very confused and immediately said he took an
5 antianxiety pill, and he was a little confused as well. He was
6 holding a blind-opener in his hand, and he didn't put it down
7 immediately, but the agents were able to take it out of his
8 hand.

9 **THE COURT:** A what?

10 **THE WITNESS:** It was, like, a wooden dowel,
11 Your Honor.

12 **BY MR. BELL:**

13 **Q.** So that -- that -- it wasn't a curtain rod; right?

14 **A.** It was to open the curtains.

15 **Q.** Isn't it to open the lock on the door?

16 **A.** Yeah. I'm unclear. I know it was a wooden dowel.

17 **Q.** You weren't there, and you don't know what the lock looks
18 like; right?

19 **A.** I do not.

20 **Q.** Right.

21 Do you -- did you talk to anybody about whether there was
22 a lock on a door that needed a rod to pull it down, and that's
23 what he was holding?

24 **A.** Like I said, I knew that he was holding a dowel. That was
25 it.

FERLAZZO - CROSS / BELL

1 **Q.** Did anybody report that he actually threatened somebody
2 with this --

3 **A.** No. No.

4 **Q.** -- this rod?

5 Okay. And he was confused?

6 **A.** He was.

7 **Q.** Okay.

8 **THE COURT:** Agent, I'm really having trouble. Can you
9 speak into your microphone?

10 **THE WITNESS:** I can, Your Honor.

11 **THE COURT:** Thank you.

12 **BY MR. BELL:**

13 **Q.** Are you telling the Court that being confused suggests he
14 might be a risk of flight?

15 **A.** I think his --

16 **Q.** That doesn't show he's a risk of flight; right?

17 **A.** Personally, I think that it shows that he is having a lot
18 of mental issues, which makes me nervous about his ability to
19 appear.

20 **Q.** Do you think someone having the FBI show up at his house
21 at 6:00 a.m. to arrest him might make him a little stressed?

22 **A.** It sure could.

23 **Q.** Okay. Most people in that situation are stressed; right?
24 Right?

25 **A.** Yes. Not all would immediately take an anxiety pill.

FERLAZZO - CROSS / BELL

1 Q. Okay. And do you know whether he had been prescribed
2 medications for anxiety and similar --

3 A. He has.

4 Q. -- disorders? He is; right?

5 A. Correct.

6 Q. So he's under the care of a doctor, and you're aware of
7 that?

8 A. I am.

9 Q. And when we're talking about "doctor," we're talking about
10 one who treats his mental health; right?

11 A. That's correct.

12 Q. Okay. And were you present when he was interviewed back
13 in -- in 2021?

14 A. I was not.

15 Q. But you have obviously spoken to people or agents who
16 were -- who were present; right?

17 A. I read the report.

18 Q. You read the report.

19 And where was he interviewed?

20 A. In Tampa.

21 Q. Is it correct that the agents walked into his house --
22 into his garage while he was parked in his car?

23 A. I assumed he was at his residence, yes.

24 Q. All right. Did they have a warrant?

25 A. No.

FERLAZZO - CROSS / BELL

1 Q. Did they seize his phone?

2 A. I'm actually unsure about that.

3 Q. Did they ask him for his phone, and did he give them his
4 phone?

5 A. He may have consented to a phone search at that point.

6 Q. And he was interviewed?

7 A. He was.

8 Q. And so, during the proffer, the Government argued that he
9 lied during the interview. About what exactly?

10 A. The lie was the fact that we know, from text messages,
11 that it was his idea to mislabel. And what he told the agents
12 that day was that the shipping company told him to do that.

13 Q. Right.

14 So he diminished his true involvement as it related to
15 shipping the vests; right?

16 A. That's correct.

17 Q. Let me ask you something about those vests.

18 Who -- who was the actual -- who owned the vests, and who
19 was transporting them to Haiti?

20 A. They were owned by CTU.

21 Q. Right.

22 And Mr. Bergmann's involvement was limited to facilitating
23 the shipment of the vests; right?

24 A. That's correct, and paying for it.

25 Q. And paying -- he paid for the vests, or he paid for the

FERLAZZO - CROSS / BELL

1 shipment?

2 **A.** He paid for the shipment.

3 **Q.** Okay. How much did he pay for the shipment?

4 **A.** Unclear. I don't remember the exact number.

5 **Q.** Did you hear the part of the proffer, and are you familiar
6 with the part of the affidavit in the complaint, that talks
7 about him spending money in furtherance of this -- of this
8 matter of --

9 **A.** That's correct.

10 **Q.** How much money did he spend?

11 **A.** There was a shipment of the vests, and then there was also
12 money to support the Colombians.

13 **Q.** Okay. So let's talk about the shipment of the vests.
14 How much money did he contribute to that?

15 **A.** I don't know the number off the top of my head.

16 **Q.** More than a hundred dollars?

17 **A.** Yes.

18 **Q.** More than 500? Probably less than 500; right?

19 **A.** Maybe so.

20 **Q.** Okay. And what else did he spend money on?

21 **A.** He spent money to house the Colombians in Haiti.

22 **Q.** And how much was that?

23 **A.** I think it was around \$5,000.

24 **Q.** He had spent \$5,000 of his money to house the Colombians?

25 Is that your testimony?

FERLAZZO - CROSS / BELL

1 A. There was a credit card statement. If -- if I can look at
2 it, I'd know that I'd -- I'd be able to know the number, but I
3 know that he spent money on the -- the hotel in -- in Haiti.

4 Q. Was he asked about that back in July of 2021?

5 A. No.

6 Q. And was he asked about this conspiracy that the Government
7 proffered, during -- during the -- during their presentation,
8 back in July of 2021?

9 A. I think it was clear of why they were there as far as it
10 was the matter surrounding the assassination.

11 Q. What did he say about whether he knew that there was a
12 plan where the goal was actually to assassinate Mr. Moïse?
13 What did he say about that?

14 A. I don't think he was asked that specific question.

15 Q. He wasn't asked about that?

16 Was he asked other questions that might engage in a
17 conversation about that?

18 A. I read the report, and I can only see what he -- what he
19 stated.

20 Q. Okay. Because you weren't there, and you really don't
21 know what he stated. You're reading a report about what he
22 supposedly stated?

23 A. That's correct. I read a report.

24 Q. Right.

25 So did he have any involvement in shipping ammo to Haiti?

FERLAZZO - CROSS / BELL

1 A. He was in direct knowledge that ammo was being shipped,
2 and he was -- coded language was used with him, what was called
3 "screws."

4 Q. Uh-huh.

5 When was that?

6 A. I don't know the date of the text off the top of my head.

7 Q. Was it before the plan changed to make Individual Number 2
8 the President and assassinate Mr. Moïse?

9 A. Well, he was still being told about it, and there was --
10 the theme of assassination runs through both the first and
11 second candidate.

12 Q. And was he ever asked about that, like, "Hey, did you know
13 that there was a plan to assassinate somebody?" What did he
14 say?

15 A. Is your question -- is your question specific to who asked
16 him?

17 Q. Yeah. Did anybody ask him?

18 A. I don't think the HSI agent specifically asked him that
19 that day.

20 Q. Well, let me ask you something. There were, like, two
21 different plans here that -- one followed the other; right?

22 A. That's correct.

23 Q. One was for Mr. Sanon to become President?

24 A. By means of force.

25 Q. Right.

FERLAZZO - CROSS / BELL

1 And the second one was to make Individual 2 the President?

2 **A.** That's correct.

3 **Q.** And am I correct that it was during Phase 2, if we'll call

4 it that, that it evolved into actually shooting and killing the

5 President?

6 **A.** Like I said, the theme for -- for violence was -- was

7 discussed throughout, or we have witnesses saying that killing

8 was an option throughout both the first and second plan.

9 **Q.** Are there any text messages or audio messages, in which

10 Mr. Bergmann is a party, where they're talking about killing

11 Mr. Moïse, and he's a party to that communication?

12 **A.** Not specific to that.

13 **Q.** Okay. Now, returning to ammo, did he actually participate

14 in sending ammo to Haiti the way he helped with the vests?

15 **A.** No.

16 **Q.** How about grenades?

17 **A.** No.

18 **Q.** How about baklavas [sic] or -- if I heard that correctly?

19 **A.** No.

20 **Q.** Battering rams?

21 **A.** No.

22 **Q.** Handguns?

23 **A.** No.

24 **Q.** Other types of guns or weapons?

25 **A.** No.

FERLAZZO - CROSS / BELL

1 Q. The vests that -- that we're talking about here, that are
2 the subject of the complaint and the indictment as it relates
3 to Mr. Bergmann -- do you know what they're worth or how much
4 was paid for them?

5 A. I think their value is approximately around a thousand
6 dollars each.

7 Q. Each.

8 So we're talking about \$20,000 in vests, then?

9 A. Approximately.

10 Q. Who was the buyer of the vests?

11 A. They were acquired by CTU.

12 Q. Okay. And Mr. Bergmann is not a principal in CTU;
13 correct?

14 A. That's correct.

15 Q. Now, I'd like to draw your attention to the portion of the
16 proffer where the Government was talking about the text
17 messages of July 7th by Mr. Bergmann with Mr. Sanon.

18 A. Okay.

19 Q. Were there any -- do you have any evidence that
20 Mr. Bergmann was texting anybody else at that time, like
21 Mr. Intriago, for example?

22 A. No. No, not that I know of.

23 Q. Okay. So the only one he was texting was Mr. Sanon and
24 this unidentified person?

25 A. The other was an email.

FERLAZZO - CROSS / BELL

1 Q. It was an e-mail?

2 A. Yes.

3 Q. So it's one email?

4 A. That's one email that we were referring to, yes.

5 Q. And the date of that was approximately when?

6 A. That's the same day of the assassination, July 7th.

7 Q. On July 7th.

8 And what did he say again in the email?

9 A. He was soliciting financial support from the individual,
10 saying that they were close to accomplishing their goal.

11 Q. Okay. And so we have that email. We have the text of
12 July 7th with Mr. Sanon. Are there any other text messages
13 between him and any of these other conspirators on July 7th?

14 A. I'd have to really look through his -- his phone before I
15 can say without --

16 Q. In looking through the evidence of his phone, are you
17 aware of any other text messages or communications where he
18 expressed surprise to learning that the President of Haiti at
19 the time had been killed?

20 A. Initially? Not that I'm aware of.

21 Q. Okay. Now, obviously, when he was interviewed on
22 July 2021, he knew he was being investigated; right?

23 A. It's a valid assumption.

24 Q. I mean, you said it was obvious; right? That's your word,
25 not mine.

FERLAZZO - CROSS / BELL

1 **A.** What was obvious? Oh. Why they were there?

2 **Q.** Why they were there. Why they were there.

3 **A.** That's correct.

4 **Q.** All right. So now between that interview and when he's
5 arrested, do you have any evidence that he -- knowing that he
6 was being investigated and that he might be charged, that he
7 took any steps to leave the jurisdiction or plan to leave the
8 jurisdiction?

9 **A.** No.

10 **Q.** And, again, he was arrested at his house; right?

11 **A.** That's correct.

12 **Q.** And you're out -- again, you're familiar with the charges
13 and the evidence; right?

14 **A.** I am.

15 **Q.** He's been charged strictly with three offenses relating to
16 the unlawful exportation of those vests; right?

17 **A.** That's correct.

18 **Q.** He's not charged with having conspired to kill Mr. Moïse
19 and the other offenses, Counts 1 through 3, in the indictment;
20 right?

21 **A.** That's correct.

22 **Q.** So there's no probable cause that he committed those
23 offenses; right?

24 **A.** Committed those offenses? No.

25 **Q.** Okay.

FERLAZZO - CROSS / BELL

1 **MS. CASTRO:** Objection, Your Honor.

2 **THE COURT:** Overruled.

3 **BY MR. BELL:**

4 **Q.** You got it.

5 And now in the several reports that the Government sent me
6 last night authored by you, I noticed that there was one
7 relating to surveilling three of the conspirators.

8 **A.** That's correct.

9 **Q.** And you wrote in the report that you were surveilling them
10 in anticipation of arresting them, if I understood the report
11 correctly; is that right?

12 **A.** That's correct. We resumed surveillance on all the
13 subjects when we felt that they had a -- an indication. After
14 we had picked up other coconspirators, we knew that they would
15 be alerted.

16 **Q.** Did you surveil Mr. Bergmann?

17 **A.** The FBI did not, but HSI did.

18 **Q.** HSI did.

19 And when did they start their surveillance?

20 **A.** The same time frame.

21 **Q.** And did they find anything in his movements or what he was
22 doing that suggested that he might flee the jurisdiction?

23 **A.** Not that I'm aware of.

24 **Q.** Okay. So you agree he's not a risk of flight; right?

25 **MS. CASTRO:** Objection, Your Honor.

FERLAZZO - CROSS / BELL

1 **THE COURT:** Overruled.

2 **THE WITNESS:** I do not.

3 **BY MR. BELL:**

4 **Q.** What evidence can you point to that shows he's a risk of
5 flight, specifically that he -- what steps did he did -- take
6 in this case -- in this case that suggests he might flee?

7 **MS. CASTRO:** Your Honor, I would just object to the
8 extent he's asking for legal argument from the witness.

9 **THE COURT:** Overruled.

10 **THE WITNESS:** Well, you asked me what I thought, and
11 I -- I said that earlier.

12 **BY MR. BELL:**

13 **Q.** Well, tell me what evidence you have that shows that he
14 might take steps to flee or that he took steps to flee, knowing
15 he was being investigated.

16 **A.** I've already stated -- we discussed where he exhibited
17 signs of having a nervous breakdown. And when you asked what I
18 thought, that's -- I think that he is capable.

19 **MR. BELL:** Okay. Just a minute, Judge, and I may be
20 done.

21 **THE COURT:** Okay.

22 **BY MR. BELL:**

23 **Q.** Am I right in understanding -- and maybe I'm wrong --
24 based on the proffer and your testimony, that the plan, if you
25 will, to dispense with Sanon and use Individual 2 took place

FERLAZZO - CROSS / BELL

1 after the vests had already been sent to Haiti?

2 **A.** That's correct, in or around the same time frame.

3 **Q.** Returning to that part of the proffer where -- and I think
4 the judge may have even asked a couple of questions about
5 meetings that were taking place in April or May. Do you
6 remember that part of the proffer?

7 **A.** I do.

8 **Q.** Do you know how many meetings we're talking about?

9 **A.** So the proffer was talking about meetings that occurred
10 from April to May. So it was two months of meetings and the
11 different witnesses. We're talking in the -- 10 to 20
12 different meetings during that time frame.

13 **Q.** And do you know -- do you have any evidence as to how many
14 of these meetings specifically Mr. Bergmann attended?

15 **A.** I don't know the specific number.

16 **Q.** Okay. Do you know where the meetings took place?

17 **A.** I do, here in South Florida.

18 **Q.** In Miami?

19 **A.** Correct. Yeah, at -- at CTU.

20 **Q.** Okay. So, arguably, CTU is in the greater Miami area --

21 **A.** Right.

22 **Q.** -- even if not in the city; right?

23 **A.** Correct. It's Doral.

24 **Q.** It's in Doral.

25 Do you have any evidence that Mr. Bergmann has ever been

FERLAZZO - CROSS / BELL

1 to CTU at Doral?

2 **A.** Outside of those meetings?

3 **Q.** Yeah.

4 **A.** No, not that I'm aware of.

5 **Q.** Do you have any evidence, other than the witness
6 statements, that show or corroborate that he was at those
7 meetings at CTU?

8 **A.** Not that I'm aware of.

9 **Q.** So the only way we might infer or understand, if you will,
10 that he was at those meetings is because somebody else said he
11 was there?

12 **A.** That's correct.

13 **Q.** Okay. And who was that?

14 **MS. CASTRO:** Objection, Your Honor.

15 **THE COURT:** Basis?

16 **MS. CASTRO:** It's seeking witness names.

17 **THE COURT:** Right.

18 **MS. CASTRO:** I don't believe we're referring to any
19 charged individuals here, and even if we were, I don't think
20 it's appropriate for defense counsel to --

21 **THE COURT:** "Do you know or not know?" Sorry. I'm
22 trying to understand your objection.

23 **MS. CASTRO:** I believe that defense counsel's question
24 was an attempt to solicit -- solicit the name of a witness that
25 provided information to the Government, and I don't think

1 that's appropriate at this proceeding.

2 **THE COURT:** Okay. Ms. Castro, let me try again.

3 The question was "What is the person's name who gave you
4 that information?" So it's not a -- it's not an ambiguous
5 question.

6 So I'm trying to understand your objection.

7 **MS. CASTRO:** I object to defense counsel seeking to
8 elicit witness names in the course of these proceedings.

9 **THE COURT:** Let me -- let me try.

10 Are you proffering or telling me that this is someone
11 who's not previously been identified at this hearing?

12 **MS. CASTRO:** Not as a witness, Your Honor. I am
13 proffering that --

14 **THE COURT:** I mean, is it your position that if that
15 came from one of the coconspirators or someone who's
16 cooperating, that wouldn't be admissible and relevant?

17 **MS. CASTRO:** It is my position that he may be able to
18 ask if that person has an incentive to lie. I think that's a
19 fair question.

20 But to ask specifically the name that would potentially
21 reveal the cooperation of a witness at this stage of the
22 proceedings, I think, is inappropriate.

23 **THE COURT:** Mr. Bell?

24 **MR. BELL:** I think it's relevant. All this is coming
25 out sooner or later. They've been proffering everyone's name

1 here.

2 **THE COURT:** Yeah. I don't --

3 **MR. BELL:** I haven't asked for the identity of the one
4 person that they've chosen not to name, but apparently this is
5 someone we've been talking about all morning.

6 **THE COURT:** I don't understand your objection,
7 Ms. Castro.

8 **MS. CASTRO:** Your Honor, I don't think it's
9 appropriate for defense counsel to seek to out the potential
10 cooperation of a witness. And to be clear, the question was
11 with respect to who said that Mr. Bergmann was at the meeting.

12 Is that fair? I just want to make sure I -- I remembered
13 it correctly.

14 **MR. BELL:** Yeah, the name of the person.

15 By the way, I would add to my argument, respectfully,
16 Judge, the Government, in its proffer, argued about the witness
17 statements given by the defendants; right? Like --

18 **THE COURT:** Yeah.

19 **MR. BELL:** -- they were interrogated. They answered
20 questions.

21 **MS. CASTRO:** Well, Your Honor, to be clear, I
22 proffered about statements that they may have said about
23 themselves. I did not proffer any statement that was offered
24 in cooperation against anybody else.

25 I've identified, yes, that we have witness statements in

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1 this case, but I don't think that defense counsel should be
2 eliciting cooperating -- or trying to elicit the name of a
3 cooperating witness. And I know that the -- the agent answered
4 that this was multiple witnesses.

5 And I don't think that defense, for his purposes of cross,
6 needs to know the name of that individual. He can certainly
7 ask about what incentive that individual may have to provide
8 dishonest information against Mr. Bergmann, but I think that
9 can be done in a way that protects the witness's identity.

10 **THE COURT:** I -- you know, as -- I hear your objection
11 is that you just keep characterizing it as inappropriate, but
12 I -- I'm not understanding the evidentiary basis for your
13 objection.

14 **MS. CASTRO:** It's -- it's -- this would be *Jencks*
15 material as to a -- as to a witness. This isn't information
16 the defense is entitled to at this stage.

17 **THE COURT:** Overruled.

18 **THE WITNESS:** So I think there are multiple sources of
19 that, to include, if I would be able to look at reports -- that
20 I think Mr. Veintemilla and Mr. Ortiz might have listed who
21 have been at these meetings -- in their meetings in July, as
22 well as John.

23 **BY MR. BELL:**

24 **Q.** Okay. And do you have dates of the meetings?

25 **A.** Not committed to memory.

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1 Q. Okay. Did they give dates for the meetings?

2 A. There were some, yes.

3 Q. Did they provide anything, other than their own
4 statements, to cooperate -- that corroborated that the
5 meetings, in fact, took place and that Mr. Bergmann was there?

6 A. There were pictures of some but not the one that
7 Mr. Bergmann attended.

8 Q. Okay.

9 A. It's --

10 Q. So Mr. Bergmann attended one meeting?

11 A. Attended, in plural, meaning --

12 Q. Okay.

13 A. -- they're not the one that he attended. They're the ones
14 that he attended.

15 Q. And am I understanding or inferring correctly that you're
16 not sure how many meetings he attended?

17 A. I'm not, not off the top of my head.

18 Q. Okay. So could -- it could have been many meetings? It
19 could have been just a few meetings?

20 A. That's correct.

21 **MR. BELL:** Okay. I don't have any further questions
22 for the witness at this time.

23 Thank you, Agent.

24 **THE WITNESS:** Yes, sir.

25 **THE COURT:** Okay. Let me make sure that I understand

1 procedurally how we're proceeding because, Ms. Kudman, you're
2 traveling off the same proffer that we've just had -- is that
3 right? -- for your client?

4 Okay. Do you --

5 **MS. KUDMAN:** (Inaudible) if the Government has
6 anything to add.

7 **THE COURT:** Ms. Castro, is there anything that you're
8 going to additionally elicit with respect to Ms. Kudman's
9 client?

10 **MS. CASTRO:** I do have -- no. With respect to the
11 factual proffer, no. I have redirect. I can save my redirect
12 for the end and the name of --

13 **THE COURT:** I was going to complete cross and then
14 have you --

15 **MS. CASTRO:** Yes.

16 **THE COURT:** Okay. So this -- and this is the same
17 agent you would call for Ms. Kudman's client?

18 **MS. CASTRO:** Yes, Your Honor.

19 **THE COURT:** Okay. Then I'm going to additionally call
20 Case Number 22-CR-20104, United States versus
21 Walter Veintemilla.

22 And, Ms. Kudman, if you'd like to cross the agent.

23 **MR. BELL:** Judge, we'll step aside.

24 **THE COURT:** Yes, if you don't mind, Mr. Bell.

25 **MR. BELL:** Thank you, Judge.

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1 **MS. KUDMAN:** I will certainly want to do that,
2 Your Honor --

3 **THE COURT:** Okay.

4 **MS. KUDMAN:** -- but I can continue with this witness
5 with respect to things that he can address.

6 **THE COURT:** Okay.

7 **MS. KUDMAN:** But, certainly, I'll want to get that on
8 the record as well.

9 **THE COURT:** Well, there's a whole team of you-all. So
10 you might want to get on the horn and see whether or not that
11 agent can get here.

12 **MS. CASTRO:** Your Honor, if I may, I also, of course,
13 don't know what defense counsel seeks to elicit. I'm certainly
14 happy to stipulate. We didn't identify any issues with respect
15 to Mr. Veintemilla's cooperation during the course of his
16 arrest.

17 I don't know if that answers the problem -- the issue.

18 **MS. KUDMAN:** No. There are some additional factors
19 that I'd like to tease out, Your Honor.

20 **MS. CASTRO:** Okay.

21 **MS. KUDMAN:** So I do certainly want to have one of the
22 agents here.

23 **THE COURT:** Okay.

24 **MS. CASTRO:** Thank you.

25 **THE COURT:** All right.

FERLAZZO - CROSS / KUDMAN

1 **BY MS. KUDMAN:**

2 **Q.** Okay. Now, you just stated that the assassination was in
3 July of 2021, and Mr. Veintemilla has been at liberty since
4 then; correct?

5 **A.** That's correct.

6 **Q.** And you are aware that Mr. Veintemilla has been
7 represented by counsel since immediately following this
8 assassination; correct?

9 **A.** Yes.

10 **Q.** And you are aware that counsel has been in regular
11 communication with the Government with respect to its
12 investigation in this case; correct?

13 **A.** I am.

14 **Q.** Are you also aware that Mr. Veintemilla has repeatedly
15 offered to self-surrender should the Government decide to
16 charge him with anything in this case?

17 **A.** I didn't get the specifics of the conversations between
18 you and the Government -- the Government attorneys.

19 **Q.** But are you aware that those offers were made on multiple
20 occasions?

21 **A.** Not that specifically, just that you guys were in contact.

22 **Q.** Okay. Now, you are aware that there was a search warrant
23 executed at Mr. Veintemilla's home in 2021?

24 **A.** That's correct.

25 **Q.** Soon after the assassination; correct?

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1 **A.** That's correct.

2 **Q.** Okay. And you are aware that Mr. Veintemilla was
3 compliant when the agents showed up at his house?

4 **A.** I am.

5 **Q.** Okay. And you're also aware that his travel documents
6 were seized during the course of that execution of that search
7 warrant; correct?

8 **A.** Yes.

9 **Q.** Are you aware of Mr. Veintemilla ever trying to leave the
10 country during the course of your investigation?

11 **A.** No.

12 **Q.** Are you aware of Mr. Veintemilla taking any steps to rid
13 himself of any assets during the course of your investigation?

14 **A.** No.

15 **Q.** Mr. Veintemilla has remained in his same home during the
16 course of your investigation; correct?

17 **A.** That's correct.

18 **Q.** And you are aware that he resides there with his current
19 wife?

20 **A.** Yes.

21 **Q.** And with his children; correct?

22 **A.** Yes.

23 **Q.** You are also aware that Mr. Veintemilla has a severely
24 handicapped child who suffers from cerebral palsy; correct?

25 **A.** I am.

FERLAZZO - CROSS / KUDMAN

1 Q. Okay. And you're aware of that because, throughout the
2 course of the investigation, counsel has communicated that and
3 said Mr. Veintemilla would appreciate the ability to
4 voluntarily surrender himself because he's very concerned with
5 the emotional effects that this might have on his child;
6 correct?

7 A. I know about the child from surveillance. I don't know
8 what you just spoke about, that specific conversation.

9 Q. Okay. You are aware that Mr. Veintemilla is the primary
10 caretaker for this child; correct?

11 A. I am.

12 Q. Are you also aware that she is un- -- incapable of
13 walking?

14 A. I know that she's wheelchair-bound, yes.

15 Q. Yes.

16 And you are also aware that she's noncommunicative?
17 She's -- she's nonverbal?

18 A. Yes.

19 Q. Okay. Are you also aware that Mr. Veintemilla's
20 children -- their mother actually is deceased; correct?

21 A. I am aware of that.

22 Q. Okay. And that his current wife is his second wife?

23 A. That's correct.

24 Q. Okay. And that they have a stable relationship and have
25 been together for --

FERLAZZO - CROSS / KUDMAN

1 **MS. KUDMAN:** 11 years?

2 **DEFENDANT VEINTEMILLA:** Yes.

3 **BY MS. KUDMAN:**

4 **Q.** 11 years?

5 **A.** I didn't know.

6 **Q.** Okay. But you haven't seen any signs that there's discord
7 in their marriage or that there's anything unstable in the
8 family unit?

9 **A.** I'm not aware of anything, no.

10 **Q.** Okay. You're also not aware of Mr. Veintemilla making any
11 effort to get additional travel documents?

12 **A.** No.

13 **Q.** Okay. Are you also aware that Mr. Veintemilla has
14 absolutely no criminal history?

15 **A.** I didn't think that was totally accurate, but maybe I'm
16 confusing him with a different subject when I thought that
17 there was some instance here.

18 **Q.** Have you read the presentence report?

19 **A.** No.

20 **MS. KUDMAN:** Okay. Your Honor, I'll -- I'll ask the
21 Court to take note of his presentence report. There's no
22 criminal history here.

23 **THE COURT:** I know.

24 **BY MS. KUDMAN:**

25 **Q.** Okay. You're certainly not aware of Mr. Veintemilla

1 having any violence in his past --

2 **A.** No. No.

3 **Q.** -- within the community?

4 **A.** No.

5 **Q.** Okay. And you're aware that Mr. Veintemilla's company,
6 Worldwide Capital, is essentially a mortgage broker?

7 **A.** I understand it as a finance company.

8 **Q.** A finance company?

9 **A.** Yes.

10 **Q.** And that he's been involved in finance for many years;
11 correct?

12 **A.** That's correct.

13 **Q.** And that, as part of his work, he financed community
14 projects in South America; correct?

15 **A.** Yes.

16 **Q.** Okay. And among those works would be water projects and
17 electric projects in third-world countries; correct?

18 **A.** As far as I know, yes.

19 **Q.** Okay. And he's been doing that for many years?

20 **A.** Yes.

21 **Q.** Okay. And particularly in underserved communities?

22 **A.** Yes.

23 **Q.** Okay. And he's never participated in a coup in any of
24 those countries; correct?

25 **A.** Not that I'm aware of.

FERLAZZO - CROSS / KUDMAN

1 Q. Okay. And part of those projects is that they are funded
2 by long-term bonds and loans and also self-funded within the
3 communities; correct?

4 A. Yes.

5 Q. And that's generally how these kinds of projects work?

6 A. As far as I know, yes.

7 Q. Okay. And are you also aware that Mr. Veintemilla has
8 extensively participated in community projects voluntarily?

9 A. I'm not.

10 Q. Okay. Now, you did draft the affidavit in support of his
11 criminal complaint? And when I say "his," I mean
12 Mr. Veintemilla's.

13 A. That's correct.

14 Q. Okay. Now, you've talked somewhat about the fact that
15 this was, in essence, an evolving situation with respect to the
16 plans in Haiti; correct?

17 A. That's correct.

18 Q. Okay. So, originally, Mr. Sanon had wanted to go to Haiti
19 and agitate for a sort of public uprising against the regime of
20 Moïse so that there could be regime change; correct?

21 A. He was the President, yes, not --

22 Q. I'm sorry, but --

23 A. Yes.

24 Q. -- I'll call it a regime.

25 A. Okay.

FERLAZZO - CROSS / KUDMAN

1 **Q.** Okay. And you're aware that there are strong beliefs, in
2 law enforcement, that President Moïse is a drug dealer?

3 **A.** What law enforcement?

4 **MS. CASTRO:** I would object to speculation.

5 **THE COURT:** Relevance?

6 **BY MS. KUDMAN:**

7 **Q.** Okay. Well, you're aware, certainly, that there's a
8 belief that this is a violent Presidency; correct?

9 **MS. CASTRO:** Objection to that characterization as
10 well as to relevance.

11 **MS. KUDMAN:** Your Honor, I think this is very relevant
12 because -- I can explain. I mean --

13 **THE COURT:** Agent's knowledge?

14 **MS. KUDMAN:** You know what? I'll --

15 **THE COURT:** Argue --

16 **MS. KUDMAN:** I'll connect it.

17 **THE COURT:** Okay.

18 **MS. KUDMAN:** I'll connect it.

19 **THE COURT:** All right. Withdrawn.

20 **BY MS. KUDMAN:**

21 **Q.** You're aware that when there were first discussions with
22 Mr. Veintemilla about providing a line of credit to CTU, it was
23 to provide security for Mr. Sanon when he went to Haiti; is
24 that correct?

25 **A.** Initially, a -- security as a Presidential hopeful.

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1 Q. Right.

2 And that the plan was that he was going to go there and
3 present himself in Haiti as a potential President; correct?

4 A. That's correct.

5 Q. And you're aware that there was a concern that there might
6 be an attempt by President Moïse to intervene with -- with
7 anybody who might present themselves as an alternative to his
8 Presidency; correct?

9 A. Yes.

10 Q. Okay. And that there was a concern that people who had
11 agitated against President Moïse had been arrested?

12 A. That's correct.

13 Q. And that there had been violence against individuals who
14 had presented themselves as either opposition to Moïse or as
15 potential substitutes for President Moïse?

16 A. I don't know about violence. I'm aware of arrests.

17 Q. There was some concern that anybody who might present
18 themselves as an alternative to President Moïse might be placed
19 in harm's way or might be arrested?

20 A. Yes. These conspirators spoke of that.

21 Q. Okay.

22 **THE COURT:** I beg your pardon. I couldn't hear you.

23 **THE WITNESS:** These conspirators spoke of that fear.

24 **THE COURT:** Thank you.

25 ///

FERLAZZO - CROSS / KUDMAN

1 **BY MS. KUDMAN:**

2 **Q.** And these conspirators also spoke about violence against
3 the citizens of Haiti who were opposed to President Moïse?

4 **MS. CASTRO:** I would object as to foundation.

5 **BY MS. KUDMAN:**

6 **Q.** Was there a discussion among the conspirators about that,
7 Agent?

8 **A.** About violence towards -- towards whom?

9 **Q.** That there had been violence by President Moïse and his
10 police against people who were opposed to his Presidency.

11 **A.** Like I said, I remember arrests. I don't -- I don't know
12 if they spoke specifically about people being killed.

13 **Q.** Okay. Are you aware that there have been news reports out
14 of Haiti of violence against individuals who are opposed to
15 President Moïse?

16 **A.** Like I said, I remember the arrests in February. I don't
17 remember the reports of people being murdered for it.

18 **Q.** Okay. Are you aware of the fact that there is quite a bit
19 of violence in Haiti --

20 **A.** There is.

21 **Q.** -- based on news reports?

22 **A.** There is.

23 **Q.** Okay. And when Mr. Veintemilla met with presidential
24 hopeful Sanon, there was a concern that there might be violence
25 against him when he arrived in Haiti?

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1 **A.** That's correct.

2 **Q.** And that's why he needed a security detail?

3 **MS. CASTRO:** I would say that calls for speculation.

4 **BY MS. KUDMAN:**

5 **Q.** Is that what they were saying? Is that what the
6 conspirators spoke about, that he needed security?

7 **A.** Correct.

8 **Q.** Okay. And in terms of providing security, is it not usual
9 for people who are involved in private security to wear
10 protective vests?

11 **A.** They do.

12 **Q.** Okay. Is it not unusual for people involved in security
13 to have guns?

14 **A.** They do.

15 **Q.** And so when the members of CTU first met with
16 Mr. Veintemilla and Mr. Sanon, the request was for a line of
17 credit so that they could put together the resources necessary
18 to be able to fund Mr. Sanon's trip to Haiti and have security;
19 correct?

20 **A.** And discussions started early on about removing the rat.

21 **Q.** Okay. Well, I didn't ask you about that yet.

22 I'm asking, at the very beginning, there were discussions
23 about President Sanon needing security when he went to Haiti;
24 correct?

25 **A.** Correct.

FERLAZZO - CROSS / KUDMAN

1 Q. Okay. And, in fact, in April, April 30th of 2021, there
2 was a loan agreement that was executed between CTU and
3 Mr. Veintemilla's company, Worldwide Capital Lending; correct?

4 A. Correct.

5 Q. Okay. And this was actually a line of credit; correct?
6 It was not a lump sum loan; correct?

7 A. Correct.

8 Q. And CTU was authorized to draw down against that line of
9 credit, as needed; correct?

10 A. That's correct.

11 Q. That's the difference between a loan and a line of
12 credit --

13 A. Correct.

14 Q. -- correct?

15 And Mr. Sanon himself was directly authorized to draw down
16 on that line of credit as well as part of that line of credit
17 agreement; correct?

18 A. That's correct.

19 Q. And, again, that was executed on April 30th at the very
20 beginning, when they were talking about presidential hopeful
21 Sanon going to Haiti; correct?

22 A. Correct.

23 Q. Okay. Now, you've identified Mr. Ortiz and Mr. Intriago
24 as princ- -- principals of CTU; correct?

25 A. Yes.

FERLAZZO - CROSS / KUDMAN

1 Q. And you're aware that Mr. Ortiz was a Government asset;
2 correct?

3 A. He was an FBI source.

4 Q. Right.

5 And he told everybody that he was working with the FBI;
6 correct?

7 A. I don't know who he told.

8 Q. But you're aware that he told a lot of people that he was
9 working with the FBI?

10 A. That he had a relationship with the FBI, yes.

11 Q. You're aware that he told Mr. Veintemilla that as well;
12 correct?

13 A. That he had a relationship, yes.

14 Q. And you don't know exactly what he told Mr. Veintemilla
15 about that relationship, but you do know that he made
16 Mr. Veintemilla aware of that; correct?

17 A. Yes.

18 Q. Okay. Now, you authored this affidavit in support of the
19 criminal complaint. And I would turn your attention to
20 Paragraph 12, where you state, "At the April meetings, CTU
21 represented that it was associated with the United States
22 Department of Justice and/or the FBI and took steps to falsely
23 suggest that the United States Government sanctioned its
24 operation plan of Sanon going over to Haiti"; correct?

25 A. I'd have to look at the paragraph exactly. I don't think

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1 that's what it -- what it says.

2 **Q.** Please take a --

3 **A.** "Sanon going" -- I don't -- what does it say?

4 **Q.** Well, it says that it sanctioned its operational plan;
5 correct?

6 **MS. CASTRO:** Your Honor, if he could just refresh his
7 recollection --

8 **MS. KUDMAN:** Absolutely.

9 **MS. CASTRO:** -- of the exact paragraph so we can be
10 precise.

11 **THE WITNESS:** Sure.

12 "Sanctioned its operational plan," not "him going."

13 **BY MS. KUDMAN:**

14 **Q.** And that's at the April 30th meeting; correct?

15 **A.** You just took it away from me, but yes. I trust you, if
16 that's what it says.

17 (Laughter.)

18 **BY MS. KUDMAN:**

19 **Q.** At the April meeting?

20 **A.** Yes, April meetings.

21 **Q.** So certainly, in April, they're representing that the
22 Government's aware of this plan?

23 **A.** Correct.

24 **Q.** Now, you also reference an April 6th meeting that did take
25 place with the FBI and Ortiz; correct?

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1 **A.** That's correct.

2 **Q.** And Mr. Veintemilla was not there; correct?

3 **A.** Not that I'm aware of.

4 **Q.** Okay. Well, take a look again at your affidavit.

5 **A.** Who did I list?

6 **Q.** It would be important to list who's there; correct?

7 **A.** For April 7th?

8 **Q.** April 6th.

9 **A.** Correct. Yeah.

10 **Q.** In the meeting with the FBI?

11 **A.** Correct.

12 **THE COURT:** Ms. Kudman --

13 **BY MS. KUDMAN:**

14 **Q.** The defendant (Inaudible)?

15 **THE COURT:** Ms. Kudman, we don't pick you up when
16 you're not on the microphone.

17 **MS. KUDMAN:** Oh. I'm sorry.

18 **THE COURT:** Ask the day of the meeting again. It was
19 April --

20 **MS. KUDMAN:** April 6th.

21 **THE COURT:** April 6th.

22 **MS. KUDMAN:** And, again, Your Honor, for the record,
23 this is a meeting between Ortiz and the FBI.

24 **THE COURT:** Okay.

25 **THE WITNESS:** We didn't list the full participants of

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1 that meeting. So I'd actually have to look at maybe
2 potentially a baseline re- -- report of who specifically was
3 there for that one.

4 **BY MS. KUDMAN:**

5 **Q.** Okay. But, certainly, it would be important for you to
6 list if Mr. Veintemilla was there; correct?

7 **A.** Potentially, but we didn't list anybody. So I just -- I
8 just don't know. I can't say one way or the other.

9 **Q.** Okay. Well, certainly, we can agree, according to your
10 affidavit, Ortiz was there; correct?

11 **A.** Correct.

12 **Q.** And you don't list Mr. Veintemilla?

13 **A.** Correct.

14 **Q.** Okay. Now, you do note a meeting on April 7th that
15 Mr. Veintemilla attended with Intriago, Solages, Sanon, and
16 John --

17 **A.** Correct.

18 **Q.** -- correct?

19 Okay. And the FBI was not there?

20 **A.** Correct.

21 **Q.** And you don't list what's discussed at the April 7th
22 meeting; correct?

23 **A.** Correct.

24 **Q.** Okay. But Sanon is there?

25 **A.** Correct.

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1 Q. So certainly, at that stage, the understanding is that
2 this is a security detail for Sanon; correct?

3 A. For security, but they're talking about their -- the plan
4 for him to become President as well.

5 Q. Right.

6 So we're still talking about Plan 1, which is Sanon to
7 become President?

8 A. Correct.

9 Q. And later on, there's a Plan 2 for another individual to
10 become President; correct?

11 A. Correct.

12 Q. Okay. Now -- you know what? To make it easier, why don't
13 I supply you with a copy of your affidavit.

14 A. Thank you.

15 Q. Sorry. I'm a little blind.

16 THE COURT: I believe we have a copy, if it's easier.

17 MS. KUDMAN: That would be great.

18 THE COURT: Sorry. I didn't register it quick enough.

19 MS. KUDMAN: I appreciate it.

20 THE CLERK: There, Your Honor.

21 BY MS. KUDMAN:

22 Q. Now, you heard the Government's proffer that
23 Mr. Veintemilla supplied -- or there was discussion of
24 supplying Kalashnikov rifles, hand grenades, gas masks, full
25 bulletproof vests; correct?

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1 A. That's correct.

2 Q. And other items.

3 If you turn to Paragraph 14 of your affidavit, you write
4 that on April 20th, Ortiz told Solages that the current
5 President of Haiti is a thief. And then on or about
6 April 21st, 2021, Solages again sent Ortiz a message with a
7 list of military equipment needed for the operation.

8 You can agree with me that that text message was not sent
9 to Mr. Veintemilla; correct?

10 A. That's correct.

11 Q. Okay. Now, if you turn to Paragraph 15, on or about
12 April 27th, again, Ortiz sent a text message to Rivera with a
13 photo of the whiteboard, with a drawing of the assault plan for
14 the palace; correct?

15 A. That's correct.

16 Q. Okay. Now, you describe the whiteboard as appearing to
17 describe the use of snipers and a militia team of ten
18 warriors/neutralizers; correct?

19 A. Correct.

20 Q. Okay. So what the whiteboard showed was individuals in
21 places up above; correct?

22 A. Correct.

23 Q. And the idea would be you use snipers for security
24 purposes; correct? To be looking down on a crowd; correct?

25 A. No. It was unclear. It's like a -- it's a picture of the

1 palace above, but then aside from that, they're not placed.

2 And it's just -- it has the kind of people for the operation
3 that will be needed, not necessarily placed at the pal- -- at
4 the palace.

5 **Q.** Okay. And it doesn't call them snipers; correct? It's
6 just "people around"?

7 **A.** No. It said "snipers."

8 **Q.** Said "snipers."

9 And so it showed people around; correct?

10 **A.** No. It has an arrow. It's -- it's at the corner of it,
11 almost kind of what their team would be in opposition to the
12 palace.

13 **Q.** Okay. Do you have a copy of that whiteboard here?

14 **A.** I do not.

15 **Q.** Okay.

16 **A.** We do --

17 **MS. CASTRO:** Your Honor, I can provide a photo of it,
18 if it's helpful.

19 **THE COURT:** Sounds like it would be.

20 **MS. KUDMAN:** Okay.

21 **MS. CASTRO:** And -- oh, not yet?

22 **BY MS. KUDMAN:**

23 **Q.** Regardless, we can agree that Mr. Veintemilla is not sent
24 that photo on April 27th; correct?

25 **A.** Did he -- did he send it?

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1 Q. He is not sent that photo; correct? On April 27th, Ortiz
2 sends that picture to Rivera; correct?

3 A. Sends, yes. Yes.

4 THE COURT: Ms. Kudman, it looks like Ms. Castro has a
5 picture there for you, if you want.

6 MS. KUDMAN: It's not relevant, Your Honor.

7 THE COURT: Oh. Sorry.

8 MS. KUDMAN: It wasn't sent to Mr. Veintemilla. So
9 that's okay.

10 THE COURT: Okay. All right.

11 BY MS. KUDMAN:

12 Q. If we turn to Paragraph 16 --

13 A. Okay.

14 Q. -- on May 22nd, Ortiz sends Solages the following text
15 message: "If things do not go well in the next few days,
16 things could come against us."

17 So, again, this is not to Mr. Veintemilla; correct?

18 A. That's correct.

19 Q. Okay. And, again, Paragraph 17. On June 2nd, Solages
20 texted Intriago a photograph of himself and other conspirators
21 sitting around a table with the message "Conducting the hitting
22 plans right now." And, again, Mr. Veintemilla is not mentioned
23 in this paragraph; correct?

24 A. That's correct.

25 Q. Now, Mr. Bergmann is not charged with providing material

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1 support or with the kid- -- kidnapping or attempted murder --
2 well, actually, assassination of the President; correct?

3 **A.** Mr. Bergmann, correct.

4 **Q.** Okay. And in Paragraph 18, you reference that Veintemilla
5 messaged Bergmann that he just wired 15,000 to James for
6 screws. Same day, Intriago texted Solages, et cetera.

7 But the point is there's a communication between
8 Mr. Bergmann and Mr. Veintemilla about screws, yet you don't --
9 you haven't charged him with understanding that this was going
10 to be a coup attempt; correct?

11 **A.** That's correct.

12 **Q.** And so somebody could have understood that there were
13 going to be screws, which you've interpreted to mean bullets,
14 without having the understanding that they were for an
15 assassination; correct?

16 **A.** Not in combination with statements that he makes later.

17 **Q.** Okay. Well, let's look at what you allege here. Let's
18 turn to Paragraph --

19 **A.** Paragraph 21.

20 **Q.** Hold on one second.

21 Now, in Paragraph 21, you allege that Veintemilla told
22 Solages, "The plan has to be simultaneously. It cannot be just
23 'hit the rat.'" And you've interpreted that to mean "hit" as,
24 like, a hit on a person, to kill them; correct?

25 **A.** Yes, or arrest operation.

1 Q. Or an arrest operation.

2 Couldn't it also be "This is the time to hit him," meaning
3 have the people agitate -- "they have to be agitating, and we
4 have to move for him to be" -- "to step down from office"?

5 A. No, because that's the other thing that he's saying.

6 Q. But there are a lot of --

7 A. He's saying the other thing is the "Hit the streets," and
8 he's saying it can't just be that. So --

9 Q. Right.

10 A. -- it's two separate events.

11 Q. But in other words, they're trying to put pressure on the
12 President, and the only way that that can happen is if they hit
13 him with all of that popular support and force him to step
14 down; correct?

15 A. That is not the way I interpret that at all.

16 Q. That's the way you interpret it; correct?

17 A. Correct.

18 Q. But there are other people, and you don't know what's in
19 their mind when they're seeing these things?

20 MS. CASTRO: I would just say it calls for
21 speculation.

22 MS. KUDMAN: Well, so does the paragraph.

23 THE COURT: Understood.

24 You can argue it, Ms. Kudman, a bit after you finish
25 examining.

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1 **MS. KUDMAN:** Okay. Thank you, Your Honor.

2 **BY MS. KUDMAN:**

3 **Q.** Now, if you turn to Paragraph 22, you're talking about as
4 late as June 9th; correct?

5 **A.** Yes.

6 **Q.** And at that point, Mr. Veintemilla is still talking about
7 Mr. P, which you've said you understood to mean Sanon --

8 **A.** That's correct.

9 **Q.** -- correct?

10 So as late as June, Mr. Veintemilla is still talking about
11 his understanding that the hope is that Mr. Sanon will be able
12 to step up as President in Haiti; correct?

13 **A.** That's correct, in that -- on that date.

14 **Q.** Okay. And you understand that, all throughout these
15 discussions, there was the term "party," which, I can gather
16 from your testimony, was the popular uprising that everybody
17 had been trying to agitate; correct? That was the term for
18 that?

19 **MS. CASTRO:** I would object that that misstates the
20 Government's proffer and, as such, the agent's testimony.

21 **BY MS. KUDMAN:**

22 **Q.** Well, let me ask you this, Agent.

23 **THE COURT:** Hold up. Hold up.

24 Overruled.

25 If you understand the question, you can answer it.

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1 If you're withdrawing the question and asking a different
2 one --

3 **MS. KUDMAN:** I can ask it clearer, Your Honor.

4 **THE COURT:** Okay.

5 **BY MS. KUDMAN:**

6 **Q.** Agent, throughout these text messages for these several
7 months, there are references to "the party"; correct?

8 **A.** Correct.

9 **Q.** Okay. And this was an evolving plan, according to your
10 theory of the case; correct?

11 **A.** That's correct.

12 **Q.** Okay. So originally, the term "party" meant, according to
13 your testimony, the popular uprising that they had hoped to
14 bring about; correct?

15 **A.** I don't have any indication that they were using the term
16 "party" back then. What we said was the -- the plan, so to
17 speak, was to foment kind of public uprising. But in this
18 instance that you're referring to, "the party" is referring to
19 an operation.

20 **Q.** Well, there are multiple plans apparently; correct?

21 **A.** Correct.

22 **Q.** So first there's a plan to put Sanon in place, and then
23 there's a plan to put Person 2 in place; correct?

24 **A.** That's correct.

25 **Q.** Okay. And these things are evolving, and different people

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1 had different understandings at different times; correct?

2 **MS. CASTRO:** It calls for speculation, Your Honor.

3 **THE COURT:** Yeah.

4 Ms. Kudman --

5 **BY MS. KUDMAN:**

6 **Q.** If you know.

7 **A.** What exactly are you asking?

8 **THE COURT:** Yeah.

9 Ms. Kudman, can I ask you two -- two things? Not revisit
10 questions you've already asked and they've already answered --

11 **MS. KUDMAN:** Yep.

12 **THE COURT:** -- and then to save argument for me?

13 **MS. KUDMAN:** Absolutely, Your Honor.

14 **THE COURT:** Thank you.

15 **BY MS. KUDMAN:**

16 **Q.** Now, Agent, if you'll turn to Paragraph 32, you allege
17 that, on July 6th, over 20 individuals from Colombia had
18 traveled to Haiti to participate in the operation; correct?

19 **A.** That's correct.

20 **Q.** And you allege that the travel was arranged for and funded
21 by Mr. Veintemilla; correct?

22 **A.** That's correct.

23 **Q.** Isn't it true that that travel was arranged for over a
24 month before?

25 **A.** That's correct.

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1 Q. Okay. And, certainly, it was paid for well over a month
2 before that as well?

3 A. That's correct.

4 Q. Okay. And you've seen the various fund draw requests that
5 were filled out in favor of C- -- CTU and Mr. Sanon?

6 A. I have.

7 Q. Okay. And you've seen that the vast majority of fund
8 requests occurred in May; correct?

9 A. Yes.

10 Q. And, in fact, that travel was paid for to the travel
11 agency directly; correct?

12 A. That's correct.

13 Q. And that was paid for in -- on May 19th of 2021; correct?

14 A. I don't have it in front of me for this specific date, but
15 I trust you.

16 Q. Okay. And I'll show you because I don't want to trick
17 you.

18 A. Is it in the complaint? Did I say that?

19 Q. No.

20 A. No?

21 Q. And, in fact, it was \$15,000; correct?

22 A. Yes.

23 **THE COURT:** Can I -- excuse me.

24 Ms. Kudman, did you show the Government what you're
25 showing the witness to refresh his recollection?

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1 **MS. KUDMAN:** Take a look.

2 **MS. CASTRO:** Understood. Thank you.

3 What's the date?

4 **MS. KUDMAN:** May 19th.

5 **MS. CASTRO:** Okay. Thank you.

6 **BY MS. KUDMAN:**

7 **Q.** Here you go.

8 **A.** Yes, May 19th for 15,477.

9 **Q.** And if you turn to Paragraph 34, you write, "According to
10 witness interviews, on or about July 6th, 2021, several
11 conspirators, including Solages, Vincent, Rivera, John, Jaar,
12 and Palacios, met prior to the assassination. And at that
13 meeting, Solages falsely announced to the group that it was a
14 CIA operation"?

15 **A.** That's correct.

16 **Q.** Okay. So throughout this whole thing, people are making
17 representations that this is a government-backed operation;
18 correct?

19 **A.** Correct.

20 **Q.** And, again, Mr. Veintemilla wasn't at that particular
21 meeting; correct?

22 **A.** He was not. It was in Haiti.

23 **Q.** It was in Haiti.

24 And, in fact, Mr. Veintemilla never went to Haiti;
25 correct?

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1 **A.** That's correct.

2 **Q.** And in July -- in fact, on July 6th, there were additional
3 text messages asking Mr. Veintemilla to continue funding the
4 operation; correct?

5 **A.** Yes.

6 **Q.** And Mr. Veintemilla declined to do so; correct?

7 **A.** Yes.

8 **Q.** And as far as you know, he never sent any more money;
9 correct?

10 **A.** Not -- not that I know.

11 **MS. KUDMAN:** One moment, Your Honor. I think I'm
12 done.

13 **BY MS. KUDMAN:**

14 **Q.** Agent, you heard the Government's proffer whereby it was
15 stated that Mr. Veintemilla provided false statements to the
16 Government. Do you know when he was interviewed?

17 **A.** In July of 2021.

18 **Q.** Right after the assassination; correct?

19 **A.** That's correct.

20 **Q.** And he voluntarily spoke with agents?

21 **A.** He did.

22 **Q.** Mr. Veintemilla also gave agents his telephone
23 voluntarily?

24 **A.** That's correct.

25 **Q.** Okay. And for the past year and a half, you're aware that

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1 counsel has been working with the Government in terms of
2 providing documents; correct?

3 **A.** What documents are you referring to?

4 **Q.** Pursuant to subpoena.

5 **A.** Yes.

6 **Q.** Okay. And you're aware that Mr. Veintemilla has
7 repeatedly stated that he is here, and he's not going anywhere?

8 **A.** Yes.

9 **Q.** Now, do you know what statements it is that you believe to
10 be false by Mr. Veintemilla?

11 **A.** I think we allege it in the proffer. I can't remember
12 what specifically we stated.

13 **Q.** There was nothing specific stated. I'm asking you. What
14 do you believe Mr. Veintemilla told the Government that was not
15 true?

16 **A.** Oh. I do feel like it was a minimization of his
17 involvement.

18 **Q.** So what specifically do you believe he minimized?

19 **A.** The fact that he was aware that it was an arrest operation
20 and that -- to think that it was not going to be violent at
21 all. I don't -- I don't think that is the -- the truth to
22 what -- in his own words from his text messages, that he's not
23 surprised by.

24 **Q.** So it's your -- it's his state of mind that you don't
25 believe he was truthful about?

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1 **A.** His -- his overall in -- characterization of it, of the --
2 of his involvement.

3 **MS. KUDMAN:** Okay. I have nothing further.

4 **THE COURT:** Okay. All right. So tell me where we are
5 procedurally.

6 **MS. KUDMAN:** Your Honor, I would like to speak to one
7 of the arresting agents.

8 **THE COURT:** Okay.

9 **MS. CASTRO:** I am -- I'm told he'll be here in 25
10 minutes.

11 **THE COURT:** Okay. All right. Well, that's -- that's
12 helpful for planning purposes, but let me -- let me do this.

13 With respect to Mr. Bell's client, Mr. Bergmann, is either
14 side advancing any additional evidence?

15 **MS. CASTRO:** Your Honor, I do have some redirect. I
16 don't know if I should reserve that.

17 **THE COURT:** Okay. Well, that's a good point.

18 Okay. So we have finished the cross of this agent,
19 Mr. Bell and Ms. Kudman?

20 **MS. KUDMAN:** Yes, Your Honor.

21 **THE COURT:** Okay. Then let -- let Ms. Castro complete
22 the redirect of the -- this agent, and then I'll go from there.

23 **MS. CASTRO:** Ms. -- I am so sorry. Your Honor, are we
24 not going to also do the cross-examination with respect to
25 Mr. Ortiz at this stage?

1 **THE COURT:** Well, the -- the request was to take
2 Mr. Ortiz up entirely at the end.

3 **MS. CASTRO:** Oh.

4 **THE COURT:** What's your pleasure, Ms. Holt?

5 **MS. HOLT:** Yes, Judge.

6 If we can come sidebar briefly.

7 **THE COURT:** Okay.

8 (Unrecorded sidebar.)

9 **THE COURT:** Okay. So we did a little planning at
10 sidebar, too.

11 So for the benefit of everybody in the courtroom, Ms. Holt
12 is going to do her cross. Ms. Castro is going to do her
13 redirect. We're going to take a short break for court staff,
14 who has been going now since 10:00 o'clock without a break.

15 By that time, it's our expectation that the other agent
16 will be here. We'll put that witness on. If there's no other
17 witness that any side is calling, at that point, we'll see
18 where we are. But any way around it, that's -- that's the
19 lineup for now, and let's see how far we get.

20 Okay. Ms. Holt, you're up.

21 **MS. HOLT:** Thank you, Judge.

22 **THE COURT:** You have your client?

23 Ms. Holt, you know that Mr. Ortiz was not getting the
24 interpretation of the first part of the proffer, and it came in
25 a good five minutes in.

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1 So do you have an ask with respect to that?

2 **MS. HOLT:** One second, Judge. I think he indicated
3 that he was okay. He does speak some English, but let me just
4 confer with him that he's okay without repeating that.

5 **THE COURT:** I -- just let me know how you want me
6 to -- yeah. Thank you.

7 (Counsel and client confer.)

8 **MS. HOLT:** We're okay going forward without repeating
9 that first part of the proffer, Your Honor. Thank you.

10 **THE COURT:** Okay, Ms. Holt. I appreciate that.
11 Okay. Agent, you're still under oath.

12 **THE WITNESS:** Yes, Your Honor.

13 **CROSS-EXAMINATION**

14 **BY MS. HOLT:**

15 **Q.** Okay. So I want to start first with the meetings that you
16 were talking about that occurred in South Florida.

17 Now, I want to talk specifically about Mr. Pretel's --
18 what you know about where Mr. Pretel -- or when and where
19 Mr. Pretel attended.

20 So we're talking, according to your complaint, about
21 meetings between February and April of 2021; is that correct?

22 **A.** I don't know about February, but maybe March through
23 April --

24 **Q.** Okay.

25 **A.** -- to May.

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1 Q. And you mentioned specifically, in the beginning of
2 March 21 -- of 2021 -- excuse me -- that there was a meeting in
3 Florida with Mr. Pretel Ortiz, Intriago, Veintemilla, and
4 others; correct?

5 A. That's correct.

6 Q. And that there were other meetings throughout the month;
7 right?

8 A. That's correct.

9 Q. But this is the only meeting that you identify
10 Mr. Pretel Ortiz as being involved in; correct?

11 A. Yes.

12 Q. All right. What -- do you have evidence that he was
13 personally at other meetings in South Florida?

14 A. I think what you're referring to is -- it's because of the
15 picture once again, but my understanding is that he was at
16 the -- the bulk of these meetings as well.

17 Q. How many meetings, and when were they?

18 A. Like I said, from the time frame of April to May, we're
19 talking about, I think, from various witness statements, 10 to
20 20 meetings.

21 Q. Okay. But you can't testify here today exactly how many
22 Mr. Pretel Ortiz was at --

23 A. I cannot. I cannot.

24 Q. -- or when those meetings took place --

25 A. Cannot.

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1 Q. -- specifically?

2 Okay. Now, according to your theory, this plan, as you've
3 stated, sort of evolved over these couple of months; correct?

4 A. That's correct.

5 Q. And it started out as a plan to arrest President Moïse?

6 A. I think it started out as a -- in the early stages, as a
7 hope that he would step down.

8 Q. Okay. And then it turned into a plan to arrest?

9 A. Correct.

10 Q. And then your theory is that, at some point, it turned to
11 a plan to kill?

12 A. It did.

13 Q. Okay. And you mention a text message from Solages to
14 Intriago with a photo of himself around a table saying, "We're
15 conducting hitting plans right now"; right?

16 A. That's correct. I think that one is early Juneish, right.

17 Q. And as you stated to the prior attorney, "hit" means
18 either kill or the arrest plan; right?

19 A. Correct.

20 Q. And that message did not go to Mr. Pretel Ortiz?

21 A. That one did not.

22 Q. Okay. And he was not present at that meeting, based on
23 the photo?

24 A. That's correct.

25 Q. Okay. Now, you have executed multiple search warrants in

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1 this case?

2 **A.** That's correct.

3 **Q.** You have obviously, from your complaint, a lot of text
4 messages from phones; right?

5 **A.** Yes.

6 **Q.** You had search warrants for at least seven iCloud
7 accounts?

8 **A.** Yes.

9 **Q.** All right. With -- are there other things that you've
10 gotten search warrant returns for?

11 **A.** Yes. They were also for -- for phones as well.

12 **Q.** Okay. And do you have, in any of these text messages or
13 accounts that you've reviewed, any communication in which
14 Mr. Pretel Ortiz is included that discuss specifically killing
15 the President?

16 **A.** Specifically using the words "kill the President"? No.

17 **Q.** Any code word that you believe meant to kill as opposed to
18 arrest?

19 **A.** Yes. We already discussed that one call, where it was --
20 it was an audio message that we -- that we quoted that
21 Mr. Veintemilla was on with. That was also Mr. Ortiz,
22 Paragraph 21.

23 **Q.** Thank you, Agent.

24 Okay. And this is the one where it talks about "Things
25 have to happen simultaneously" --

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1 A. Correct.

2 Q. -- right?

3 And when the other -- the prior attorney questioned you,
4 you said "hit" in that case could mean kill or arrest; right?

5 A. That's correct.

6 Q. Okay. So in the review of all of this evidence that
7 you've procured so far, is there any communication that
8 Mr. Pretel Ortiz is a part of that specifically discussed that
9 the plan is to kill the President?

10 A. No.

11 Q. Okay. And you testified that there was a meeting on
12 July 6th in Haiti; correct?

13 A. That's correct.

14 Q. And that's where Solages announces now that the plan is to
15 kill President Moïse?

16 A. That's correct.

17 Q. And Mr. Pretel Ortiz was not present in that meeting?

18 A. That's correct.

19 Q. Okay. Now, the financing for the items mentioned in the
20 complaint and that Mr. Veintemilla is alleged to have sent
21 that -- or people are alleged to have sent that -- the
22 financing comes from Worldwide; correct?

23 A. That's correct.

24 Q. It doesn't come from CTU?

25 A. It's a -- correct. It's a -- it's a CTU line of credit.

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1 Q. Right, but they're not actually putting up the funds?

2 A. Correct.

3 Q. Now, I want to draw your attention to Paragraph 24 of the
4 complaint. In it, you say Rivera sends Mr. Pretel Ortiz a text
5 message stating, in substance, that they need these items you
6 previously mentioned, battering ram, black caps.

7 It says "in substance." What did the text message
8 actually say --

9 A. It was in Spanish.

10 Q. -- versus an interpretation?

11 A. It was in Spanish, and that was just -- it was a list.
12 When we looked at that summary of it -- it was essentially just
13 a summary of it. It was just the fact -- we said "in
14 substance" because we weren't quoting because it was in
15 Spanish.

16 Q. Is this a direct translation of the Spanish, or is this an
17 interpretation of what was said?

18 A. It's not a word-for-word translation, if that's what
19 you're asking me.

20 Q. Okay.

21 **MS. CASTRO:** Could I -- could I ask, Your Honor, if
22 the defense could clarify that question? What -- as an
23 interpretation as to what language?

24 **THE COURT:** I'm sorry. You can ask anything you want
25 on redirect, but I'm not going to tell Counsel what questions

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1 to ask.

2 **BY MS. HOLT:**

3 **Q.** When I say "interpretation," I mean someone's -- not a
4 language interpretation, but someone has read it -- has read
5 it?

6 **A.** Correct.

7 **Q.** Translated it --

8 **A.** Correct.

9 **Q.** Translates it into Spanish?

10 **A.** Correct.

11 **Q.** And then summarizes or interprets the meaning of it, and
12 that's what's in Paragraph 24?

13 **A.** Correct.

14 **Q.** Okay. Now, as you've said, Mr. Pretel Ortiz was
15 interviewed immediately after, or almost immediately after, the
16 killing on July 7th; is that right?

17 **A.** That's correct.

18 **Q.** Do you know what date he was interviewed?

19 **A.** There were multiple dates, both by HSI and FBI. I don't
20 know the dates off the top of my head.

21 **Q.** How many interviews did he give?

22 **A.** Two to three.

23 **Q.** And these were voluntary; right?

24 **A.** Yes.

25 **Q.** Would it be fair to say these took place in approximately

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1 July of 2021?

2 **A.** That's correct.

3 **Q.** Where did they take place?

4 **A.** With both HSI and FBI.

5 **Q.** Okay. So Mr. Pretel Ortiz actually traveled to --

6 **A.** He did.

7 **Q.** -- the FBI or HSI office for these interviews?

8 **A.** He did.

9 **Q.** Okay. And a search warrant was executed on his house in
10 approximately August of 2021?

11 **A.** Yes.

12 **Q.** And in it, they seized electronics?

13 **A.** They did.

14 **Q.** And that same day, Mr. Pretel Ortiz had been called into
15 either the FBI or HSI office?

16 **A.** Yes.

17 **Q.** And he voluntarily went?

18 **A.** He did.

19 **Q.** Okay. And he voluntarily spoke with the agents there?

20 **A.** He did.

21 **Q.** And it was -- and in the meeting, he was told that some of
22 his colleagues and other people, now defendants in the case,
23 had hired lawyers?

24 **A.** Yes, that sounds right, but I don't remember the specifics
25 of that. I can't remember that specific line from it.

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1 Q. And after that, Mr. Pretel Ortiz hired lawyers?

2 A. After the interview?

3 Q. After the search warrant in August.

4 A. Yes, as far as I know.

5 Q. Okay. And so that was approximately one and a half years
6 ago?

7 A. Yes.

8 Q. And since then, his lawyers have reached out to the
9 prosecutors on multiple occasions?

10 A. Yes.

11 Q. Okay. And there's no evidence that, during that time,
12 Mr. Pretel Ortiz attempted to leave the United States?

13 A. That's correct.

14 Q. Now, when he was arrested, he was arrested at his home?

15 A. He was.

16 Q. And it was very early in the morning?

17 A. It was.

18 Q. It was a SWAT team; correct?

19 A. Yes.

20 Q. And when they arrived, they called over a megaphone for
21 him to come out?

22 A. That's correct.

23 Q. And he came out?

24 A. He did.

25 Q. And he complied?

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1 **A.** He did.

2 **Q.** And his travel documents or his passport has been seized?

3 **A.** I actually don't know that specifically.

4 **Q.** One moment.

5 **A.** We didn't take anything from him that morning. So I
6 don't --

7 **Q.** So you're not -- you don't know if his --

8 **A.** I mean, I was on the arrest, and I didn't --

9 **Q.** Okay.

10 **A.** I didn't -- I didn't take it unless it was in his -- I
11 don't think it was on his person. He even -- he left his
12 phone.

13 **Q.** Do you know if it's been seized since?

14 **A.** I don't think it has.

15 **MS. HOLT:** Okay. One moment, Your Honor.

16 **BY MS. HOLT:**

17 **Q.** In one of the interviews in July of 2021 with
18 Mr. Pretel Ortiz, he did tell the Government or the FBI that
19 CTU had contracted and funded security personnel to travel to
20 Haiti?

21 **A.** Correct.

22 **Q.** Prior to his arrest, you conducted surveillance on
23 Mr. Pretel Ortiz?

24 **A.** We did.

25 **Q.** And that was approximately January 26th through

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1 February 8th?

2 **A.** Correct, after we did the -- the other coconspirators who
3 were arrested.

4 **Q.** And as you previously stated, you did that because you
5 knew they would be alerted that other people were getting
6 picked up?

7 **A.** That's correct.

8 **Q.** And by "picked up" -- sorry -- I mean arrested.

9 **A.** Yes.

10 **Q.** Okay. And during that surveillance, was there any
11 indication that Mr. Pretel Ortiz was trying to leave his house
12 or permanently move from where he was living --

13 **A.** No.

14 **Q.** -- or flee the country?

15 **A.** No.

16 **Q.** Even leave the city?

17 **A.** I don't know about the city, but he's local to a point.

18 **Q.** There was no indication he was packing up to go somewhere?

19 **A.** Correct.

20 **MS. HOLT:** Okay. I don't have anything else.

21 Thank you, Agent.

22 **THE WITNESS:** You're welcome.

23 **THE COURT:** Ms. Castro?

24 **MS. CASTRO:** Your Honor, may I proceed on redirect --

25 **THE COURT:** Yes.

1 **MS. CASTRO:** -- as to any witness --

2 **THE COURT:** Yes. Oh. Any --

3 **MS. CASTRO:** -- or as to any defendant, or should --
4 in a specific order?

5 **THE COURT:** No, all of the testimony of the agent, any
6 redirect you have.

7 **MS. CASTRO:** Understood.

8 Thank you, Your Honor.

9 **REDIRECT EXAMINATION**

10 **BY MS. CASTRO:**

11 **Q.** All right. So I'll just start -- I'm going to try to work
12 my way backwards here.

13 There was a question just now on the cross-examination
14 with respect to Mr. Ortiz. There was some discussion of
15 interviews that were conducted in -- of Mr. Ortiz in July. Do
16 you recall that?

17 **A.** Yes.

18 **Q.** And I think that came up in several of the
19 cross-examinations, when the defendants were first spoken to.

20 **A.** Yes.

21 **Q.** Do you recall that?

22 Can you just give an overview of some of the investigative
23 steps that law enforcement have been involved in since that
24 time leading to today?

25 **A.** To conduct the investigation as a whole?

FERLAZZO - REDIRECT / CASTRO

1 Q. That's right.

2 A. Massive efforts spanning, you know, multiple countries,
3 multiple, multiple, multiple devices and -- and interviews
4 of -- of numerous individuals.

5 Q. You mentioned devices. If you had to estimate the number
6 of devices seized in connection with this case, how many would
7 you estimate?

8 A. Around a hundred.

9 Q. And fair to say that a review of those devices were all
10 part of this investigation?

11 A. They were.

12 Q. Now, there was also a reference from Mr. Ortiz's counsel
13 regarding his statements to you when he was first interviewed?

14 A. Correct.

15 Q. Or -- I apologize -- not to you, to law enforcement when
16 he was first interviewed?

17 A. Correct.

18 Q. Do you recall whether, during that interview, Mr. Ortiz
19 was asked about an alleged plan to arrest President Moïse?

20 A. Yes.

21 Q. What did he say?

22 A. Which one are we talking about?

23 Q. Mr. -- if -- I know there were several. If we could try
24 to focus on the first interview with law enforcement, or
25 perhaps if -- if we can focus on -- have you -- have you

FERLAZZO - REDIRECT / CASTRO

1 reviewed the various interviews?

2 **A.** I have.

3 **Q.** Okay. Do you know whether Mr. Ortiz acknowledged any
4 knowledge of an arrest warrant?

5 **A.** Did he bring that up in those interviews?

6 **Q.** Correct.

7 **A.** No.

8 **Q.** Okay.

9 **THE COURT:** Can I understand that question? Any --
10 any -- did he acknowledge any knowledge -- that he knew about
11 his own arrest warrant?

12 **MS. CASTRO:** I apologize, that he knew about an arrest
13 warrant with respect to President Moïse.

14 **THE COURT:** An arrest warrant?

15 **MS. CASTRO:** I misspoke, Your Honor. An arrest plan
16 with respect to President Moïse.

17 **THE COURT:** Okay.

18 **MS. CASTRO:** I apologize.

19 **BY MS. CASTRO:**

20 **Q.** Let me re- -- let me reissue the question, just to make
21 sure that the record is clear.

22 What, if anything, did Mr. Ortiz say over the substance of
23 his interviews -- I know there were several -- about his
24 involvement in -- if any, in a plan to arrest President Moïse?

25 **A.** He did not disclose his involvement.

FERLAZZO - REDIRECT / CASTRO

1 Q. Okay. What about the topic of the alleged immunity
2 agreement that was proffered during the Government's proffer?
3 Was that raised during Mr. Ortiz's interview?

4 A. No.

5 Q. Okay. When I say "raised," did law enforcement ask
6 Mr. Ortiz about that immunity agreement?

7 A. I don't know specifically.

8 Q. Okay.

9 A. Yeah.

10 Q. There was also a mention by defense counsel about the
11 portion of the complaint into Mr. Ortiz, where it's referenced
12 that Mr. Solages announced the plan to kill President Moïse on
13 July 6th. Do you remember that question?

14 A. Correct. Yes.

15 Q. We talked already about the devices that have been
16 recovered and reviewed in this case. Have you had a chance to
17 review communications between Mr. Solages and Mr. Ortiz?

18 A. Yes.

19 Q. How, generally, did Mr. Ortiz -- I apologize -- did
20 Mr. Solages respond to Mr. Ortiz, or what terms did he use to
21 refer to him during these communications?

22 A. In general, Solages is reporting to him as the -- someone
23 superior to him, as his colonel.

24 Q. Okay.

25 **THE COURT:** Wait. I don't understand. Solages --

1 **THE WITNESS:** Reporting to Ortiz as his superior.

2 **THE COURT:** So you're telling us that there's
3 communications where he calls him "General"?

4 **THE WITNESS:** "Colonel."

5 **THE COURT:** "Colonel"?

6 **THE WITNESS:** "Colonel."

7 **THE COURT:** Okay.

8 **BY MS. CASTRO:**

9 **Q.** And were there communications where Mr. Ortiz issued
10 directives to Mr. Solages?

11 **A.** Where Solages issued directives?

12 **Q.** Mr. Ortiz --

13 **A.** Ortiz, yes.

14 **Q.** -- issued directives to Mr. Solages?

15 **A.** Yes.

16 **Q.** And would Mr. Solages receive and accept those directives?

17 **A.** He would.

18 **Q.** Now, there was some question about the way that messages
19 were interpreted that were originally in Spanish. Do you
20 recall that?

21 **A.** Yes.

22 **Q.** Can you describe the process that you went through to
23 decipher and translate into English messages that were
24 originally written in Spanish?

25 **A.** A native Spanish-speaker would -- would write those

1 sentences.

2 **Q.** Okay. Based on their translation of the -- the words
3 used?

4 **A.** Correct.

5 **Q.** Okay. Now, I do want to reference -- there was reference
6 from Mr. Veintemilla's attorney regarding a whiteboard. Do you
7 recall that?

8 **A.** Yes.

9 **Q.** And there was some questions about what was specifically
10 on the whiteboard. Do you remember that?

11 **A.** Yes.

12 **Q.** Okay. Have you seen a photograph of that whiteboard
13 before?

14 **A.** I have.

15 **MS. CASTRO:** Your Honor, if I may approach the witness
16 with an exhibit.

17 **THE COURT:** Are you putting it in evidence?

18 **MS. CASTRO:** I would, Your Honor.

19 **THE COURT:** Okay.

20 **MS. CASTRO:** It's marked as Government's Exhibit 1,
21 and I will show it to defense counsel.

22 (Government's Exhibit 1 marked for identification.)

23 **MS. CASTRO:** I do, yes. I apologize. I think it was
24 originally my -- okay. Very good.

25 I'm just getting a copy for defense counsel.

1 Okay. We will provide a copy to defense. We're just
2 receiving it, but I'm just going to continue with questioning.

3 Okay. May I approach the witness, Your Honor?

4 **THE COURT:** Yes, ma'am.

5 **BY MS. CASTRO:**

6 **Q.** Okay. Special Agent Ferlazzo, do you recognize that --
7 that picture?

8 **A.** I do.

9 **Q.** What is it?

10 **A.** It's a whiteboard that -- within CTU that was sent, and it
11 has a picture of the -- the palace. And it -- it outlines
12 potentially different security personnel but then potential
13 actors that would be going in opposition to it, is my
14 interpretation of it.

15 **Q.** Okay. Now, you said that this was a photo from within
16 CTU. What do you mean by that?

17 **A.** It was a photo taken inside CTU from a whiteboard.

18 **Q.** Okay. And I believe that there was some -- there was some
19 challenge from defense counsel on what exactly was depicted on
20 the whiteboard. Do you recall that?

21 **A.** Yes.

22 **Q.** Can you just identify for the Court what some of the terms
23 were used to refer to the men or the -- what terminology did
24 you use on this whiteboard?

25 **A.** It looks like they're saying there was a -- a militia

1 team.

2 Q. Okay. Any other words that --

3 A. And operators and warriors, the neutralizers.

4 Q. Neutralizers?

5 A. Yes.

6 Q. Okay. And this is a photo that Mr. Ortiz circulated to
7 other members of the conspiracy; is that right?

8 A. That's correct.

9 Q. Okay. And there was some challenge from Mr. Veintemilla's
10 counsel on whether he ever received a copy of the whiteboard.
11 Let me --

12 MS. CASTRO: Yes. Do we have the pic- -- the original
13 picture to give her as -- oh. You already gave it to her.

14 We'll give a copy, marked now as Exhibit 2, to
15 Mr. Veintemilla's counsel.

16 (Government's Exhibit 2 marked for identification.)

17 MS. CASTRO: And if I may approach the witness.

18 THE COURT: Yes, ma'am.

19 Just remember that if you're not on a microphone, you're
20 not part of the transcript.

21 MS. CASTRO: Understood, Your Honor.

22 BY MS. CASTRO:

23 Q. Mr. Ferlazzo -- Special Agent Ferlazzo, do you recall --
24 actually, can you just take a moment to review the exchange in
25 front of you?

1 A. I've reviewed it.

2 Q. Okay. Are you familiar with that exchange?

3 A. I am.

4 Q. All right. You saw it before today?

5 A. Yes.

6 Q. All right. Can you just identify who the speakers are in
7 this exchange?

8 A. Arcangel Pretel Ortiz and Walter Veintemilla.

9 Q. Okay. And what is being communicated from Mr. Ortiz over
10 to Mr. Veintemilla?

11 A. This picture, Exhibit 1.

12 Q. That's a picture of the whiteboard that we were just
13 discussing that references neutralizers?

14 A. Correct.

15 Q. Okay. And when did he send that message to
16 Mr. Veintemilla?

17 A. On the 5th of May --

18 Q. Of May?

19 A. -- of 2021.

20 Q. Okay. Now, I'll also just refer -- also to what I've now
21 marked as Government's Exhibit 3, and I believe defense already
22 showed you a copy of this document.

23 (Government's Exhibit 3 marked for identification.)

24 **BY MS. CASTRO:**

25 Q. I'll put it in front of you again now.

1 Do you remember defense counsel showed you that earlier?

2 A. Yes.

3 Q. And what is it, just generally, for -- for the record?

4 A. A fund draw request from -- from Worldwide Capital.

5 Q. And -- and Worldwide Capital is, again, operated by who?

6 A. Walter Veintemilla.

7 Q. And what's the date on that fund draw request?

8 A. This one is from the 19th --

9 Q. Okay.

10 A. -- of May.

11 Q. And what is the fund draw request for?

12 A. This is for transportation requested by Sanon.

13 Q. Okay. So as defense counsel was eliciting, this is from
14 Mr. Sanon's travel to Haiti; is that right?

15 A. Yes.

16 Q. Okay. And so this is a May 19th travel fund draw request
17 from Mr. Sanon?

18 A. It is.

19 Q. After this message on May 6th with respect to neutralizers
20 being sent to Mr. Veintemilla?

21 A. Correct.

22 Q. Okay. There was also reference, from Mr. Veintemilla's
23 counsel, about Mr. Veintemilla declining to offer additional
24 funds towards July 6th. Do you remember that line of
25 questioning?

1 **A.** I do.

2 **Q.** Did Mr. Veint- -- do you remember why it was that
3 Mr. Veintemilla was declining to give additional funds at that
4 point?

5 **A.** At that point, they felt like they had not accomplished
6 their goal of removing the President.

7 **Q.** Okay. And did Mr. Veintemilla specify anything in
8 particular that would need to happen before more funds would be
9 available?

10 **A.** I'd need to see the exact -- what the exchanges say
11 exactly, but I think it was --

12 **MS. KUDMAN:** Your Honor, I'm going to object to "I
13 think it was."

14 **MS. CASTRO:** Okay.

15 **THE WITNESS:** I'm asking to see it.

16 **THE COURT:** Are you moving to strike or --

17 **MS. KUDMAN:** Yeah, I move to -- I move to strike.

18 **THE COURT:** Agent, if you have a basis for knowledge
19 and you want to complete your answer --

20 **MS. CASTRO:** Your Honor, I do have the document that
21 he's requesting. I'm happy to offer that.

22 **THE COURT:** It's -- it's not my witness, Ms. Castro,
23 however you want to handle it.

24 **MS. CASTRO:** Thank you, Your Honor.

25 ///

1 **BY MS. CASTRO:**

2 **Q.** Right.

3 Okay. If I can actually just refer you,
4 Special Agent Ferlazzo -- do you still have a copy --

5 **A.** I do.

6 **Q.** -- of the complaint?

7 **A.** Which paragraph?

8 **Q.** It's Paragraph 33.

9 And I'll just refer you to the second sentence where
10 Mr. -- regarding Mr. Veintemilla's response to Mr. Ortiz and
11 Intriago.

12 **A.** Yes. So that it took too long and that Individual 2 has
13 not been sworn in, and the President is not out of office yet.

14 **Q.** Okay.

15 **MS. KUDMAN:** Your Honor, I'm going to object. That's
16 not what it says.

17 **MS. CASTRO:** Your Honor, I'm happy to just read
18 directly from the complaint.

19 **THE COURT:** Let -- sorry, but when we object to the
20 testimony, is the ask, Ms. Kudman, to strike, or do you want
21 redirect, or do you want to put the exhibit in evidence?

22 **MS. KUDMAN:** I'm going to move to strike --

23 **THE COURT:** The last answer?

24 **MS. KUDMAN:** -- and ask for redirect.

25 **THE COURT:** Okay. Will you ask another question,

1 Ms. Castro, whether it's the same question or it's your next
2 one?

3 **MS. CASTRO:** Well, Your Honor, it is in the record in
4 Paragraph 33 of the complaint. I just want to be clear on the
5 point. If we can just have the agent read the exact sentence
6 that's in the complaint, we won't have him summarize it.

7 **THE COURT:** You can read it. Go ahead.

8 **MS. CASTRO:** Okay. I will read it. Thank you,
9 Your Honor.

10 "Veintemilla responded, in substance, that things took too
11 long, and there was no money or investors, that until
12 Individual 2 is sworn in and President Moïse was out of office,
13 the investors would not contribute any more money."

14 **BY MS. CASTRO:**

15 **Q.** Do you remember swearing to that in this complaint?

16 **A.** I do.

17 **Q.** Is that still your testimony today?

18 **A.** It is. It is.

19 **Q.** Okay. Now, you've also talked about -- well, at least the
20 Government did in its proffer -- about a purported immunity
21 agreement that was circulated amongst the coconspirators. Do
22 you recall that?

23 **A.** I do.

24 **Q.** Do you -- do you review any communications -- well, do you
25 know whether Mr. Veintemilla ever received a copy of that

1 immunity agreement?

2 **A.** He did.

3 **Q.** Okay. And, again, that immunity agreement was signed by
4 whom -- allegedly signed by whom?

5 **A.** Allegedly by Individual 2.

6 **Q.** Okay. Defense counsel for Mr. Veintemilla made some
7 statements of -- or asked you some questions about the
8 interpretation of the phrase "Hit the rat" that appeared from
9 Mr. Veintemilla alongside reference to a simultaneous plan. Do
10 you recall that questioning?

11 **A.** Yes.

12 **Q.** Can you explain how you understood, based on your
13 knowledge of the investigation, what the simultaneous plan was
14 and how that interacted with the notion of "Hit the rat"?

15 **A.** It was two separate operations: One, the arrest or kill
16 the President, and then the other was to kind of create the
17 distraction elsewhere by people hitting the streets and further
18 fomenting public uprising.

19 **Q.** Okay. Mr. Veintemilla's counsel also asked a line of
20 questions about Mr. Veintemilla's company being essentially a
21 mortgage company. Do you recall that?

22 **A.** Yes.

23 **Q.** Just a moment.

24 And then she -- she also made reference to Mr. Veintemilla
25 coordinating security for Mr. Sanon in Haiti. Do you recall

1 that line of questioning?

2 **A.** Yes.

3 **Q.** Can you describe the kind of terminology that
4 Mr. Veintemilla would use when he referred to ammunition he was
5 sending to Haiti -- or funding for Haiti?

6 **A.** They're screws or nails.

7 **Q.** In your training and experience, were those ordinary terms
8 that legitimate security services use?

9 **A.** No.

10 **MS. KUDMAN:** I'm going to object to that.

11 **THE COURT:** Basis?

12 **MS. KUDMAN:** He hasn't laid a foundation for knowing
13 what usual terms people in that field would use.

14 **THE COURT:** Overruled.

15 **BY MS. CASTRO:**

16 **Q.** Special Agent Ferlazzo, are you familiar with reading
17 coded language?

18 **A.** I am.

19 **Q.** Can you explain some of your history and the work you do?

20 **THE COURT:** Actually -- I'm sorry -- it's already laid
21 out in the complaint, which has been made part of this record.

22 **MS. CASTRO:** Understood, Your Honor.

23 I'll move on.

24 **BY MS. CASTRO:**

25 **Q.** Now, there was also reference, during Mr. Veintemilla's

1 attorney's questioning, to the portion of the complaint that
2 referred to Mr. Ortiz's history as a source for the FBI. Do
3 you recall that line of questioning?

4 **A.** Yes.

5 **Q.** We already talked about the fact that Mr. Veintemilla was
6 interviewed by law enforcement; is that right?

7 **A.** That's correct.

8 **Q.** When Mr. Veintemilla was interviewed by law enforcement,
9 did he, in any way, assert or claim that he believed his
10 actions in Haiti were sanctioned by the U.S. government?

11 **A.** No.

12 **Q.** Did he, in any way, assert or claim that his actions in
13 Haiti were sanctioned by the Department of Justice?

14 **A.** No.

15 **Q.** The FBI?

16 **A.** No.

17 **Q.** Going back to the term "private" -- to the reference to
18 Mr. Veintemilla offering private security -- well, I'll move on
19 from that. I withdraw.

20 There -- there was also questioning from defense counsel
21 for Mr. Veintemilla regarding what meetings Mr. --
22 Mr. Veintemilla may have been in attendance at. Do you recall
23 that?

24 **A.** I do.

25 **Q.** Did you review any photographic evidence with respect to

1 these meetings?

2 **A.** Yes.

3 **Q.** Did you ever see Mr. Veintemilla pictured in any
4 photographs at these meetings?

5 **A.** Yes.

6 **Q.** And in those photographs, was he pictured align --
7 alongside other coconspirators in this case?

8 **A.** Yes.

9 **Q.** Including Mr. Ortiz?

10 **A.** Yes.

11 **Q.** There was also a line of questioning from
12 Mr. Veintemilla's counsel that I think -- I believe came up --
13 I apologize -- that I believe came up across the various
14 cross-examinations, which was this notion of a self-surrender
15 by the defendants. Do you remember that?

16 **A.** Yes.

17 **Q.** Can you describe as -- how long you've been a law
18 enforcement officer?

19 **A.** Coming up on 14 years.

20 **Q.** Can you describe some of the operational hazards that are
21 entailed in a self-surrender?

22 **A.** It's just an increase to the -- the risk of flight when
23 you're actually letting someone know that you actually finally
24 have an arrest warrant, yes. Your hand is shown, so to speak.

25 **Q.** Fair to say that there's concern about permitting anyone

1 to self-surrender if you believe they are a risk of flight?

2 **A.** Correct.

3 **Q.** There's been a lot of characterizations --

4 characterizations by defense counsel as to the evolving phases
5 of the conspiracy. Do you recall that?

6 **A.** I do.

7 **Q.** Based on your knowledge of the investigation, is it your
8 view that assassination was only ever the discussion at the
9 very end of this conspiracy?

10 **A.** No.

11 **Q.** Can you explain what you mean?

12 **MR. BELL:** Objection to "view." We were talking about
13 evidence and not his opinion.

14 **THE COURT:** I understand, but I understand it's him --
15 to be asking about his perspective on the evidence. Overruled.

16 **THE WITNESS:** You know, based from -- from witness
17 testimony, the -- the theme of assassination was either
18 accepted as collateral damage early on or specifically thought
19 of.

20 **MS. KUDMAN:** Your Honor, I'm going to object to the
21 vagueness of this testimony. Who are they -- who's having
22 these discussions? When are these discussions happening?
23 Who's present for these discussions?

24 I mean, these kinds of generalizations are truly
25 objectionable.

1 **THE COURT:** They're also just not helpful in terms of
2 where we are in this hearing, having reviewed in a chrono- --
3 chronological order what the correspondence were.

4 **MS. CASTRO:** I understand, Your Honor.

5 I'll move on.

6 **BY MS. CASTRO:**

7 **Q.** I want to go back to Mr. Bergmann, and we talked about the
8 vests -- and it came up in cross as well -- that Mr. Bergmann
9 shipped to Haiti; is that right?

10 **A.** Correct.

11 **Q.** Do you know -- actually, withdrawn.

12 Do you know what some of the gear was that the assassins
13 used when they entered the President's home on July 7th?

14 **A.** Yes, the vests.

15 **Q.** The same vests we've been talking about?

16 **A.** The same vests.

17 **Q.** Okay. I just wanted to make that clear.

18 Now, there was also a line of questioning from
19 Mr. Bergmann's attorney regarding whether Mr. Bergmann ever, at
20 any point, expressed surprise in the assassination of Mr. -- of
21 President Moïse. Do you remember that?

22 **A.** Yes.

23 **Q.** Did you ever see any text messages where Mr. Bergmann
24 attempted to rebuke Mr. Intriago for the outcome in -- in
25 Haiti -- or let me rephrase it -- expressed surprise at the

1 outcome in Haiti?

2 **A.** You're talking about days afterwards?

3 **Q.** Yes.

4 **A.** Yes.

5 **Q.** Okay. Could you just give, like, a substance of your
6 memory of that communication?

7 **A.** Days after, what I read was things had kind of went
8 against the things that he had said earlier, talking about --
9 claiming that he was never supportive of any violence.

10 **Q.** Okay. So I want to be clear. When you say the statements
11 that you were reading from Mr. Bergmann days after went against
12 the statements that he -- who had made earlier?

13 **A.** Bergmann himself --

14 **Q.** Okay.

15 **A.** -- as far as being aware of what the --

16 **Q.** Okay.

17 **A.** -- the actions were.

18 **Q.** All right. Now, there was also questioning as to whether
19 Mr. Bergmann was attendance -- Mr. Bergmann was in attendance
20 at any of the meetings that were held in South Florida
21 regarding the suggested coup.

22 Do you know whether Mr. Bergmann said anything about
23 attending these meetings in his interview with law enforcement?

24 **A.** I think he spoke to them as well. He just -- he might
25 have said May in his interview. I can't remember specifically

1 without the report in front of me.

2 **Q.** Understood, but without recalling the specific date, you
3 recall him referencing attending such meetings?

4 **A.** Correct.

5 **MS. CASTRO:** Okay. Just one moment, Your Honor.

6 Your Honor, that -- that concludes our redirect at this
7 time.

8 **THE COURT:** Okay. All right. Ms. Kudman, you wanted
9 redirect of that last question?

10 **MS. KUDMAN:** Your Honor, if I can redirect on just a
11 couple of other very quick points.

12 **THE COURT:** Okay. I'm going to ask everybody to be
13 cognizant of the fact that this has been going on --

14 **MS. KUDMAN:** I understand.

15 **THE COURT:** -- for two hours and not revisit any
16 grounds that have been covered before.

17 Mr. Bell, are you at the podium because you likewise wish
18 to redirect -- redirect? Okay.

19 **MR. BELL:** I don't think I have any questions with
20 regard to my case.

21 **THE COURT:** Okay. Ms. Kudman?

22 **MS. KUDMAN:** Thank you, Judge.

23 **RECROSS-EXAMINATION**

24 **BY MS. KUDMAN:**

25 **Q.** Okay. Agent, directing your attention to Paragraph 33,

1 where you say that Veintemilla responded, in substance, that
2 things took too long, and there was no money or investors.
3 Mr. Veintemilla specifically said "and until Moïse was out of
4 office"; correct?

5 **A.** Correct.

6 **Q.** He didn't say "until Moïse is dead"; correct?

7 **A.** That's correct.

8 **Q.** And in terms of the text message of the whiteboard to
9 Mr. Veintemilla --

10 **MS. KUDMAN:** Your Honor, do you have a copy of this?

11 **THE COURT:** I don't.

12 Thank you, Ms. Kudman.

13 Is this what you -- you want me to keep, or do you want
14 it --

15 **MS. KUDMAN:** I just want you to take a look at it.

16 **BY MS. KUDMAN:**

17 **Q.** There's no explanation of what that is when the text is
18 sent -- correct? -- to Mr. Veintemilla?

19 **A.** So I actually think it's accompanied by a longer audio,
20 where he's describing it in Spanish, but not that I have a
21 memory of -- that's going to give it clearer than what I
22 already stated.

23 **Q.** There's no description of, like, what that is showing or
24 what the plan is or who each of those people are or --

25 **A.** No.

1 Q. -- anything; correct?

2 A. No.

3 Q. Okay. Now, there's been mention of an arrest document for
4 President Moïse; correct?

5 A. Yes.

6 Q. And that document was actually signed by a Supreme Court
7 Justice in Haiti; correct?

8 A. That's correct.

9 Q. It was also signed off on by several deputies in Haiti;
10 correct?

11 A. I'm only familiar with the ones -- the signature of the
12 one judge, but there might have been another signature at the
13 bottom, but I can't say whether it's several or one.

14 Q. Okay. And you would agree with me that my client is not a
15 lawyer; correct?

16 A. Correct.

17 Q. He's certainly not a lawyer in Haiti; correct?

18 A. That's correct.

19 Q. Okay. So you wouldn't expect him to know who has
20 authority to arrest whom; correct?

21 **MS. CASTRO:** Objection, Your Honor.

22 **THE COURT:** Sustained.

23 **BY MS. KUDMAN:**

24 Q. Now, in that same message in Paragraph 33, there's
25 reference to investors; correct? I'm sorry. I'll let you take

1 some time to look at it.

2 **A.** Yes, 33.

3 **Q.** Mr. Veintemilla mentioned that investors would not
4 continue to provide any funding to CTU; correct?

5 **A.** That's correct.

6 **Q.** So is it your understanding that the line of credit was
7 actually not issued by Mr. Veintemilla personally?

8 **A.** Issued by him, but to -- to your point, he has investors
9 in this initiative.

10 **Q.** Right.

11 It's not his money. It's investor money; correct?

12 **A.** I don't know if it's not -- if it's all investor money or
13 if he doesn't -- isn't contributing some of his own. I'm not
14 actually sure of the -- the breakdown from where this came
15 from.

16 **Q.** So you don't know if he invested or not?

17 **A.** I don't know how much he contributed himself. I don't.

18 **Q.** Okay. But you --

19 **A.** No.

20 **Q.** -- know that, certainly, this line of credit was funded by
21 investors?

22 **A.** Correct.

23 **Q.** Thank you.

24 **MS. KUDMAN:** I have nothing further.

25 **THE COURT:** Okay. Does that conclude our examination

1 of this witness?

2 **MS. CASTRO:** It does -- oh. No, it doesn't.

3 **MR. BELL:** Yes, Judge, for me at least.

4 **THE COURT:** Okay. Well, then, as promised, I need to
5 give my court staff a break.

6 **MR. BELL:** Of course.

7 **THE COURT:** Okay. Okay. All right. We're going to
8 break until 1:30.

9 **THE CLERK:** All rise.

10 **MR. CARUSO:** Your Honor, Michael Caruso on behalf of
11 Mr. Pretel Ortiz.

12 May I beg the Court's indulgence for one second?

13 **THE COURT:** Yes, sir. Go ahead.

14 Everybody else, sit back down.

15 **MR. CARUSO:** I'll be fast. You don't have to sit
16 down.

17 Do you have any intention of addressing the conflict issue
18 today?

19 **THE COURT:** The -- in the manner that I spoke to
20 Ms. Holt about at sidebar.

21 So, Ms. Holt, did you convey to Mr. Caruso what we're
22 going to do? Sorry.

23 **MR. CARUSO:** Okay.

24 **THE COURT:** So the short answer is I'm not going to
25 take the substance of it up. It was just filed, and so I'm not

1 going to arraign him today.

2 I'm so sorry. You've been here for three hours for that?

3 **MR. CARUSO:** I found it very interesting, though.

4 (Laughter.)

5 **MR. CARUSO:** It's not -- it's time well spent.

6 **THE COURT:** I'm sorry.

7 **MR. CARUSO:** No.

8 **THE COURT:** Okay.

9 **MR. CARUSO:** I mean, he's -- Mr. Pretel Ortiz is my
10 client as well. So you don't have to apologize.

11 **THE COURT:** I understand. I understand, Mr. Caruso.
12 Okay. All right. Is it 1:30?

13 **THE CLERK:** I'll go down and get her.

14 **THE COURT:** We'll see everybody back at 1:30. Okay?

15 (Recess taken at 1:12 p.m.)

16 (Proceedings resumed at 1:32 p.m.)

17 **THE CLERK:** All rise.

18 **THE COURT:** Okay. All right. Please be seated. I
19 apologize for the delay.

20 Okay. Ms. Castro --

21 **MS. CASTRO:** Yes, Your Honor.

22 **THE COURT:** -- do you have another agent?

23 **MS. CASTRO:** We -- I do, Your Honor. My colleague,
24 Ms. Goldberg, had an opportunity to talk with him while I was
25 doing my other presentation. So she's actually going to do a

1 very quick direct with that agent.

2 **THE COURT:** I appreciate it.

3 Go ahead.

4 **MS. GOLDBARG:** Yes, Your Honor.

5 The Government would like to call Justin Carsten to the
6 stand.

7 **THE CLERK:** Sir -- sir, raise your right hand.

8 **JUSTIN CARSTEN,**

9 called as a witness for the Government, having been duly sworn,
10 testified as follows:

11 **THE WITNESS:** I do.

12 **THE CLERK:** Thank you. Please be seated.

13 Speak into the microphone. State your name. Can you
14 spell your last name for the record and tell us where you're
15 employed?

16 **THE WITNESS:** Justin M. Carsten, C-a-r-s-t-e-n,
17 Federal Bureau of Investigation.

18 **MS. GOLDBARG:** May I inquire, Your Honor?

19 **THE COURT:** Yes.

20 **DIRECT EXAMINATION**

21 **BY MS. GOLDBARG:**

22 **Q.** Special Agent Carsten, were you one of the agents that
23 arrested Walter Veintemilla on February 14th of this year?

24 **A.** Yes, I was.

25 **Q.** At what time approximately did you arrive at -- at

1 Mr. Veintemilla's house?

2 **A.** We arrived at his house at approximately 5:10 a.m.

3 **Q.** Can you explain to the Court what it is that you did once
4 you arrived at his house?

5 **A.** Once we arrived at his house, we positioned the vehicles
6 in front of the house, including a police car and an FBI
7 official vehicle with red and blue flashing lights, and then we
8 deployed the personnel around the house and called
9 Mr. Veintemilla using my cell phone.

10 **Q.** Did you call him?

11 **A.** I did, using my phone.

12 **Q.** Okay. Did you speak with him?

13 **A.** I did, yes.

14 **Q.** What did you say?

15 **A.** I informed him -- I addressed him by name and informed him
16 that I was -- of my name and that I was calling from the FBI
17 and asked him to come outside.

18 **Q.** What, if anything, did he say?

19 **A.** He asked me if he could use the restroom before he came
20 outside, and he asked if he was under arrest.

21 **Q.** And what -- what response did you give to him?

22 **A.** I asked him if he could delay his restroom visit until he
23 came outside and spoke to us but assured him we would allow him
24 to use the bathroom, and I deferred the question as to
25 whether -- his arrest and told him we'd talk about that when he

1 came outside.

2 **Q.** Okay. Did you instruct him of what he should or should
3 not have in his hands when he came out of the house?

4 **A.** I did. I told him that he could put on clothing before he
5 came outside but that he should have his -- he could stay on
6 his phone, because he was on his cell phone with me, and he
7 could keep the cell phone with him but that, when he came
8 outside, he should have his hands up. He should have no other
9 objects with him or on his person or in his hands.

10 **Q.** And what happened next?

11 **A.** Mr. Veintemilla came to the front door. He came outside.
12 He was given instructions by another agent verbally on where to
13 walk. He was asked to walk to one of the vehicles, turn
14 around, and he was handcuffed by one of the task force
15 officers.

16 **Q.** What happened after that?

17 **A.** I spoke to him very briefly, asked him if he'd like to
18 change clothes, you know, take care of some personal items, use
19 the restroom. He indicated he would like to. We discussed
20 going back into his house to do that, and then we took him back
21 into the house to do those things.

22 **Q.** What happened when you got into the house?

23 **A.** Once we got into the house, we met his wife at the front
24 door. We briefly explained to her what was happening. And
25 when we walked into the house, there were two other females by

1 the stairs. We went back to his bedroom/bathroom area. He was
2 allowed to use the restroom, change clothes, and then we picked
3 up his medication.

4 **Q.** And then what happened before you left the house?

5 **A.** Before we left the house, we gave him a few minutes to say
6 goodbye to his other family members who were there, his wife,
7 make sure to get his medication and gave him a few minutes to
8 coordinate with his wife so he could contact -- or she could
9 contact his attorney for him.

10 **Q.** Can you describe the general interaction that you had with
11 Mr. Veintemilla?

12 **A.** It was calm, polite, and professional.

13 **Q.** Did he, at any point in time, resist any of your
14 instructions?

15 **A.** No.

16 **Q.** Okay. Approximately how long did this interaction take?

17 **A.** I couldn't say how long we were at the house exactly.
18 There would be a -- there would be a record of that by when we
19 started transport. So I wouldn't want to guess. We were not
20 there a long time, though.

21 **MS. GOLDBARG:** Nothing further.

22 **THE COURT:** Okay.

23 **CROSS-EXAMINATION**

24 **BY MS. KUDMAN:**

25 **Q.** Good afternoon, Agent.

1 **A.** Good afternoon.

2 **Q.** Okay. Thank you for being here.

3 How long had you been involved in this investigation prior
4 to the arrest of Mr. Veintemilla?

5 **A.** I'm not involved in this investigation other than my
6 participation assisting in particular operations.

7 **Q.** Okay. Were you told about Mr. Veintemilla's personal
8 circumstances with his child being ill?

9 **A.** I was told by other agents that he had a child who was
10 special needs, yes.

11 **Q.** Okay. And were you told that anybody had concerns about
12 him being a danger to you or your agents in arresting him?

13 **A.** Not specifically. Like any -- like an unusual
14 circumstance or something like that?

15 **Q.** Well, did anybody indicate to you that they thought that
16 Mr. Veintemilla might be violent when you went to arrest him?

17 **A.** Other than normal concerns for safety, nothing unusual,
18 no.

19 **Q.** Okay. Did everybody indicate to you that Mr. Veintemilla
20 had previously asked to be able to voluntarily surrender if it
21 was decided to arrest him?

22 **A.** That was never discussed with me, no.

23 **Q.** Okay. And when you asked him to come out on the phone,
24 did Mr. Veintemilla, in any way, indicate to you that he didn't
25 want to come out?

1 A. No.

2 Q. He immediately told you that he wanted just to put on some
3 clothes and come out to you?

4 A. Mr. Veintemilla was completely compliant, and when he
5 asked to get dressed and things like that, it was -- he was not
6 being noncompliant. He was just asking.

7 Q. Okay. And in return, you extended him some nice
8 courtesies by allowing him to change into clothes that he might
9 be more comfortable in?

10 A. That's correct, yes.

11 Q. Okay. And you allowed him to take time through his home
12 and get medications that he needed?

13 A. I believe his wife got the medications.

14 Q. Okay. And he indicated to you that he's diabetic, and so
15 he needed medicine for diabetes?

16 A. Not at that time. We did not ask what -- at least to my
17 recollection, I don't recall asking what medications
18 specifically he was taking. We just asked him if he needed any
19 medical attention, if he needed -- if he had any -- any
20 conditions, if he needed to bring any medications, to bring
21 them.

22 Q. Okay. And he indicated that he did indeed have some
23 conditions that needed some treatment?

24 A. He did, yes.

25 Q. Okay. And did you later understand that Mr. Veintemilla

1 is diabetic and needs medication for that?

2 **A.** He later told us he was diabetic, yes.

3 **Q.** Okay. And, indeed, his wife packed up his pill bottles
4 for that; correct?

5 **A.** She placed a number of pill bottles in a plastic Ziploc
6 bag, and we did take them with us, yes.

7 **Q.** Okay. And Mr. Veintemilla was compliant at all times?

8 **A.** Absolutely, yes.

9 **Q.** He didn't seem surprised when you were there?

10 **A.** I couldn't say whether or not he appeared surprised. I
11 think that would be beyond what I could say, but he didn't --
12 he was not resistant or -- and he was completely compliant.

13 **Q.** And he was polite?

14 **A.** He was polite and professional the entire time.

15 **Q.** Thank you.

16 **MS. KUDMAN:** I have nothing further.

17 **MS. GOLDBARG:** Nothing further for him.

18 **THE COURT:** Okay. Thank you, Agent. Thank you for
19 coming forward.

20 **THE WITNESS:** Thank you, Your Honor.

21 **THE COURT:** Okay. Does that conclude the evidentiary
22 portion except for what I've discussed with Ms. Holt?

23 **MS. KUDMAN:** Yes.

24 **MR. BELL:** Judge, I -- I do have some photographs I
25 wanted to show the Court.

1 **THE COURT:** Okay. Go ahead, Mr. Bell.

2 **MR. BELL:** And I would proffer, although I do have a
3 witness here, if it's necessary -- I don't think it's
4 necessary, but if it turns out to be, we can do that.

5 **THE COURT:** Okay.

6 **MR. BELL:** But --

7 **THE COURT:** Go ahead, Mr. Bell. You've got the floor.

8 **MR. BELL:** Huh?

9 **THE COURT:** You've got the floor.

10 **MR. BELL:** So, Judge, there was some -- I think
11 Agent -- and I'm going to mispronounce his name, and I don't
12 mean to be rude when I say that, but Agent Ferzzalo or --

13 **MS. CASTRO:** Ferlazzo.

14 **MR. BELL:** -- Ferlazzo testified he wasn't present
15 when my client was arrested but that he had understood that my
16 client's wife opened the door and that my client was holding
17 something.

18 I would proffer, Number 1, he wasn't there. He admitted
19 that. Number 2, if necessary, my client will contradict that,
20 and my client's wife will testify Mr. Bergmann actually opened
21 the door. And the reason he had something in his hand --

22 **THE COURT:** Mr. Bell, just remember that if you're not
23 on the microphone, then you're not on the transcript. So --

24 **MR. BELL:** The reason he had something in his hand is
25 because of the locking device on his door. He didn't go fetch,

1 as the Government apparently argued at one point, a curtain rod
2 to answer the door.

3 And, again, I would proffer that Tracey Martin, my
4 client's wife of over 20 years, is sitting here in court. She
5 was sitting next to me throughout the Court's hearing. And, if
6 necessary, she would testify that he answered the door, and he
7 put that device down as soon as he was instructed to.

8 **THE COURT:** Okay. Okay.

9 **MR. BELL:** Then with respect to argument, if I may --
10 I don't know if anybody else has --

11 **THE COURT:** I just want to get confirmation that
12 there's no one else who intends to advance evidence.

13 From the Government?

14 **MS. CASTRO:** No, Your Honor. Thank you.

15 **THE COURT:** Ms. Kudman?

16 **MS. KUDMAN:** No, Your Honor.

17 **THE COURT:** Okay. All right.

18 **MR. BELL:** So just a second, Judge.

19 All right. So -- so, Judge, first of all, my client does
20 not present a serious risk of flight, which the Government has
21 the burden of demonstrating here today to obtain detention as
22 the relief that they're seeking.

23 Their own witness, as to the more serious charges and
24 allegations that are being made in this case generally, which
25 are lodged in Counts 1 through 3 of the indictment, that

1 include the offense of conspiring to not just depose Mr. Moïse
2 but to assassinate him -- he conceded that there's no probable
3 cause that my client was involved in those offenses, that he
4 committed those offenses. And as such, he wasn't charged with
5 those offenses.

6 And I'd point that out to start here because I think, on
7 some level, my client has been lumped in unfairly in the
8 request for detention as if he was charged with those offenses;
9 and, therefore, he would be facing God knows how much time for
10 having allegedly committed those fences -- offenses and,
11 therefore, might have an incentive to flee.

12 Okay. And the bottom line is when I questioned the agent
13 multiple times, the only thing that he could suggest that might
14 indicate my client is a risk of flight is that he receives
15 mental health treatment or that he was anxious when they
16 arrested him. I think most people would probably be anxious
17 when they arrested them.

18 And as shown in the Pretrial Services report, my client
19 does receive mental health treatment. And I would proffer to
20 the Court -- and his wife would testify, if necessary -- that
21 he is seeing a doctor. The doctor has a name. The doctor
22 prescribes specific medications for his condition.

23 So, of course, anybody under those circumstances might be
24 anxious, but that's not a grounds from which any Court can find
25 or infer that the defendant is a risk of flight, much less a

1 serious risk of flight.

2 Mr. Bergmann, Your Honor, is a 63-year-old man, a
3 native-born United States citizen, with strong ties to the
4 communities and none really outside the United States. I would
5 proffer to the Court he's lived at the same home, as verified
6 in the Pretrial Services report, with his wife in Tampa and
7 that he's lived in the Tampa area for 20 years, approximately.

8 He's married to Tracey Bergmann. They've been married
9 since 2002 -- -2, and they have a daughter, who lives with them
10 at that home. Their daughter has severe HDHD [sic], anxiety
11 disorder, and executive function disorder. My client obviously
12 takes part in making sure that she gets the appropriate care
13 and treatment for those sorts of things. She also takes
14 medications for those conditions.

15 Tracey Martin is here in court, came here from Tampa.
16 Tracey Martin is willing to cosign a bond. She's, again, been
17 married to my client since 2002. She's a pediatrician, and
18 she's been working at the same practice in Tampa since 1998.
19 Before that, she was in the Air Force. She is the model of
20 stability, the model of the sort of surety this Court would
21 want.

22 Together -- again, as you heard already, when my client
23 was colloquied with respect to the appointment of counsel, and
24 as set forth to some extent in the Pretrial Services report --
25 but I'll proffer that they own the property listed. They live

1 at the property listed in that Pretrial Services report.

2 They have a mortgage on it of roughly half a million
3 dollars, although Tracey Martin, his wife -- or Dr. Martin
4 informs me that they do have substantial equity in their house
5 because of the fair market value, although it's not clear how
6 much.

7 But it's north of \$500,000 or somewhere -- well, I'm
8 sorry. Not north of 500,000 dollars -- dollars, but somewhere
9 in the neighborhood of \$500,000 of equity, give or take, maybe
10 somewhere in between 3- to \$500,000. But the point is there's
11 substantial equity, and there's a lot for her to lose,
12 including her house.

13 They also own together the property where Mr. Bergmann's
14 parents live. That's 3146 Waverly Park in Tampa. As shown in
15 the Pretrial Services report, they together have over \$200,000
16 in equity there.

17 So between those two properties, they both have a lot to
18 lose should my client flee, leave the jurisdiction, fail to
19 comply with bond, and that sort of thing.

20 Additionally, my client's wife, Dr. Martin, has a property
21 that he doesn't own. He's not on the title because she owned
22 it and lived in it before they got married years ago.
23 Apparently, she still uses it for purposes of deriving rental
24 income, but she owns the property. It's at 3132 Waverly Place
25 in Tampa, Florida.

1 If you look at Mr. Bergmann's background, Your Honor, his
2 extensive ties to the community, his marriage of 20-plus years,
3 it shows that he presents little or no risk of flight. Again,
4 the standard here is whether he's a serious risk of flight,
5 that he'll flee.

6 As to the nature of the case, which I think the Government
7 has been sort of relying on to some extent to say, "Well, this
8 shows that he's likely to flee," again, he's charged solely
9 with three offenses all revolving around the unlawful smuggling
10 of these vests.

11 I've run the guidelines on those offenses. Without
12 acceptance of responsibility, it's 63 to 78 months. Now,
13 certainly, that's some time. I wouldn't make fun or make light
14 of a 63-month sentence, but it's not the kind of sentence that
15 a 64-year-old man, who's lived his entire life in the
16 United States, who's a United States citizen, whose wife is
17 signing on a bond that, if he ran, his own parents would lose
18 their house, is likely to run for -- or run away from.

19 And, again, as it relates to the nature of the case and
20 its notoriety and the fact that, unfortunately, it did
21 revolve -- result in the death of Mr. Moïse, who was the
22 then-President of Haiti, my client is simply not charged with
23 those offenses, and that agent testified there's no probable
24 cause that he committed them.

25 The other thing is look at the Bail Reform Act. The

1 statute in this case -- case doesn't favor detention. It's not
2 a rebuttable presumption case. In fact, the opposite is true.
3 This doesn't involve a crime of violence with a stat max of
4 over ten years. It's not a crime with a life of -- max
5 imprisonment of life, a drug trafficking or controlled
6 substance offense with a mandatory minimum, or any other sort
7 of the classic cases identified there.

8 Additionally, and importantly, Mr. Bergmann undeniably,
9 uncontrovertedly, has known about this investigation for some
10 time. The agent verified in cross-examination that, in July of
11 2021, his colleagues or coagents, if you will, went to my
12 client's house, and they talked to him. It was, quote/unquote,
13 "obvious" why they were there, and they talked to him about the
14 subject matter of this investigation.

15 And you can infer that Mr. Bergmann may have realized or
16 seen that other persons who were now defendants were arrested
17 before him, and he didn't flee. According to the agent's
18 testimony, Homeland Security surveilled him in anticipation of
19 his arrest, and they did not see or hear anything that
20 suggested he might flee. He was compliant when they showed up
21 at his house and submitted to their authority.

22 In short, Your Honor, there are bond conditions that the
23 Court can and should grant that will reasonably assure
24 Mr. Bergmann's appearance in court. Detention, simply put, is
25 unwarranted -- -warranted. And the record in this case, in its

1 totality, both as to his background, his lack of any meaningful
2 criminal history -- there's nothing in his background that
3 suggests he would fail to appear.

4 He knew about this. He knew it was coming, and he was
5 found at his house. He had a lot of opportunities to flee, and
6 apparently -- and, obviously, he didn't take those
7 opportunities. The record simply doesn't support detention in
8 any way. We propose that the Court grant him bond. I can be
9 specific.

10 I think you should combine -- you should grant a
11 combination bond, if you will, Your Honor -- or bonds, plural.
12 One would be a high personal surety bond. I would suggest at
13 about \$550,000 cosigned by Tracey Bergmann, who is here in
14 court. And the other would be a 200,000-dollar/10 percent bond
15 that, of course, would require a 20,000-dollar deposit with the
16 Clerk of the Court.

17 I'd proffer to the Court that my client's wife put that
18 money already in my trust account so that, if -- if you grant
19 bond, I could get ahead of this and get the money deposited
20 right away and that those funds come from her USAA savings
21 account from a lifetime of savings.

22 Again, the totality of the circumstances here favor bond,
23 and Tracey Berg- -- Tracey Martin -- she goes by her family
24 name -- is an excellent, excellent surety, given the
25 circumstances.

1 And there's nothing here to suggest that Mr. Bergmann
2 would flee the jurisdiction, resulting in his wife and daughter
3 losing their home, his parents losing their home, and his wife
4 losing the home that she had before she met him. There's just
5 nothing about him to suggest that he would ever do that to
6 them.

7 **THE COURT:** Okay. Thank you, Mr. Bell.

8 Have I heard you out?

9 **MR. BELL:** I'm sorry?

10 **THE COURT:** Have you -- your -- I want to turn to the
11 Government. Have I heard everything?

12 **MR. BELL:** Oh, yes, of course.

13 Thank you, Judge.

14 **THE COURT:** Okay. Ms. Castro?

15 **MS. CASTRO:** Thank you so much, Your Honor.

16 It's the Government's position that Mr. Bergmann is
17 absolutely a serious risk of flight, and I'm going to begin by
18 referencing the net equity just briefly with respect to
19 Mr. Bergmann's homes because I know that was -- that was
20 somewhat explored at the time of CJA appointment.

21 And it was unclear, in the pretrial report, what the
22 equity was in Mr. Bergmann's homes. He acknowledged he was
23 unsure of it in the pretrial report. But to defense counsel's
24 point, we do have documentation that Mr. Bergmann has
25 approximately 1-point -- nearly a million and a half dollars in

1 equity in his two homes.

2 Now, I understand defense counsel is proffering that that
3 means there is a substantial property or a substantial amount
4 that could be used to secure Mr. Bergmann's potential return,
5 but I would submit it also shows that he has resources that
6 could be liquidated to facilitate flight should he choose to go
7 down that path.

8 **THE COURT:** Why isn't that alleviated by a condition
9 that -- of nonencumbrance?

10 **MS. CASTRO:** I couldn't --

11 **THE COURT:** If -- just as to that specific argument --

12 **MS. CASTRO:** Sure.

13 **THE COURT:** -- if the homes are used first to secure
14 the bond, and I separately impose the condition that they are
15 not able to encumber or otherwise sell the property during the
16 condition of bond, then they wouldn't be able to liquidate and
17 have -- is that what you're arguing, is that they have a lot of
18 assets?

19 **MS. CASTRO:** Yes, Your Honor, but I would also note
20 that this seems to have not been fully represented by
21 Mr. Bergmann at the time of the initial, and so the Government
22 does have some concern that there was not complete candor in
23 this regard.

24 **MR. BELL:** Well, I disagree with that.

25 **MS. CASTRO:** I think that's relevant to Your Honor's

1 consideration.

2 **THE COURT:** I appreciate it, but I'd really also
3 appreciate everyone not interrupting each other.

4 **MR. BELL:** Understood.

5 **THE COURT:** Again, if we ever need to make a
6 transcript of this hearing, it's got to be clean and clear.

7 So I will say, Ms. Castro, that at the time of the
8 initial, as is my practice, when I saw that it was the -- or I
9 think I asked him, "That's the home where you and your wife
10 live in?"

11 Then I don't press the value because if there was another
12 person who was living in that house and has the right to, it's
13 not usually the asset that we are looking to, for purposes of
14 appointment of counsel, making themselves to hire an attorney.

15 So I didn't press on the assets. I'm -- I'm just hesitant
16 to put too much weight in my failure to ask questions.

17 **MS. CASTRO:** Understood, Your Honor.

18 I'll move on from that point.

19 **THE COURT:** I don't mean to cut you off.

20 **MS. CASTRO:** No. I understand.

21 **THE COURT:** I'm just telling you how I'm
22 contextualizing it because once I knew that he and his wife
23 lived there, I wasn't going to make him sell it to hire an
24 attorney.

25 **MS. CASTRO:** I understand, Your Honor.

1 With respect to the remainder of the Government's
2 argument, the defense -- defense counsel has talked at length
3 about the fact that Mr. Bergmann suspected he was perhaps a
4 suspect in this investigation. And, of course, that was clear
5 over -- as the witness was being examined.

6 But the situation is very different today. Mr. Bergmann
7 is now indicted. Mr. Bergmann has now read, in a complaint,
8 the wealth of evidence that the Government has against
9 Mr. Bergmann, which is to say that his incentive to flee is
10 today the strongest that it has ever been.

11 At the time of the original interview, Mr. Bergmann did
12 not know that the Government had text messages where
13 individuals were talking to Mr. Bergmann about a, quote, "coup
14 meeting." Mr. Bergmann did not know that the Government had
15 text messages where he was engaged in discussions as to
16 providing screws and nails in furtherance of a coup to remove
17 President Moïse.

18 Now, I understand defense counsel's point that he's not
19 charged at this stage with an involvement in a conspiracy to
20 kill or kidnap. But the evidence in the complaint lays out, at
21 minimum, exposure for Mr. Bergmann not only as to the current
22 charges but as to charges that may be coming down the road.
23 And that is a relevant consideration for Mr. Bergmann's risk of
24 flight.

25 He's also an individual who is older in age and is facing

1 potentially 20 years in prison, and that, too, would suggest a
2 risk of flight as to Mr. Bergmann, considering that that could
3 be the equivalent, for him, of a life sentence.

4 But at the heart of what's in the complaint is that
5 Mr. Bergmann practiced in deception. Mr. Bergmann notably lied
6 to send ballistic vests that were worn by assassins when they
7 went into the President's home to kill him.

8 Mr. Bergmann was captured in communications openly talking
9 about how he could properly or best lie on the shipping forms
10 in order to help the Colombians that were retained get this
11 equipment. At the time that he was originally interviewed, he
12 was also not aware of that.

13 And Mr. Bergmann's deception didn't just happen over the
14 course of the conspiracy. It happened later, during his
15 interview. When he was confronted by law enforcement, he
16 shifted the blame to the shipping company and said, "Well, no.
17 It was the shipping company who told me to lie on these forms."

18 The evidence also shows that Mr. Bergmann not only himself
19 lied but was coaching his coconspirators on how they could
20 further his deception to facilitate the receipt of these vests
21 in Haiti.

22 There were messages that he sent to Mr. Sanon confirming
23 what needed to be said to the individual in Haiti with respect
24 to receiving this equipment and why the medical equipment might
25 be needed, further evidence that this is an individual who

1 practices in deception.

2 Mr. -- Mr. Bergmann did not know at the time that he was
3 originally interviewed, for example, that the Government had
4 communications where he talked about, quote, "Battle happening
5 now." The evidence in this case shows that Mr. Bergmann was
6 completely unsurprised and -- was completely unsurprised when
7 he learned that there had been an attack on the President's
8 residence.

9 And I understand that he's not currently charged with
10 that, but it does speak to the nature and circumstances of
11 the -- of the offense, and it does speak to the characteristics
12 of this defendant.

13 The conduct that this defendant engaged in does not
14 suggest that he has respect for the rule of law or that he
15 would be an individual who is inclined to comply with the terms
16 of conditional release.

17 **THE COURT:** I have to interrupt you for a second.
18 It's always my practice to tell everybody where their uphill
19 battle lies.

20 **MS. CASTRO:** Yes, Your Honor.

21 **THE COURT:** So your argument so far has gone, it seems
22 to me, very much to the strength of the evidence, which is
23 significant.

24 So I don't -- you can argue any way you want to, but I
25 don't think that's your uphill battle. Okay?

1 **MS. CASTRO:** Understood.

2 **THE COURT:** And, likewise, the nature and the
3 characteristics of the offense -- or the characteristic of
4 the -- of the crimes that are alleged collectively in the
5 complaint, I also understand.

6 But I don't think you're addressing serious risk of
7 flight, other than he's named in an indictment now.

8 **MS. CASTRO:** Your Honor, I don't want to disregard
9 Your Honor's comment on what is not -- is or is not my uphill
10 battle. My point, with respect to the nature and circumstances
11 of the offense, is I do believe that they suggest this
12 defendant is a risk of flight.

13 This is an individual -- I think that his actions, as
14 memorialized in the complaint and set out in the evidence, do
15 not speak to a nature of being willing to comply with pretrial
16 conditions.

17 This is someone who, from his home, was able to play a
18 role in funneling resources to the assassination of a
19 President. And that is a very bold -- that's a very bold step
20 for an individual to take. And so I think that the nature and
21 circumstances here do not suggest that Mr. Bergmann is suitable
22 for pretrial release.

23 I do want to speak --

24 **THE COURT:** Like I tell you, it's just -- it's a very
25 generic argument like "He broke the law, and so he'll do it" --

1 "he won't comply with bond."

2 **MS. CASTRO:** Well, I think it's not just that he broke
3 the law, but the manner in which he broke the law is that he is
4 deceptive. He showed a willingness to be extremely deceptive.

5 And the fact that he was willing to deceive law
6 enforcement, he was willing to lie on shipping paperwork, all
7 in furtherance of trying to unseat a President -- I don't
8 know -- presumably for some financial gain, begs the question
9 of what he might be willing to do, what deception he might be
10 willing to -- to engage in in order to avoid potential criminal
11 liability on the charges at issue here.

12 I do also want to reference the -- the mental health
13 issues that were raised by defense counsel and that have been
14 talked about. The evidence came in that Mr. Bergmann,
15 immediately upon learning that there was an arrest warrant into
16 him, instructed his wife to Baker Act him.

17 We also know, from the evidence that was proffered, that
18 immediately after the assassination, Mr. Bergmann also sought
19 to be Baker Acted or was Googling the Baker Act. This can mean
20 to the Government one of two things:

21 Either Mr. Bergmann legitimately, himself, believes that
22 he is a danger potentially to himself or others, which does not
23 speak well of his ability to comply with the conditions -- or
24 the terms of conditional release, which suggests instability;
25 or it could mean that Mr. Bergmann is malingering, and he is

1 willing to potentially commit himself in order to avoid
2 potential incarceration.

3 Either way that evidence comes out, it does not counsel in
4 favor of releasing this defendant, based on the evidence that
5 he now knows is presented against him.

6 **THE COURT:** But you're traveling on serious risk of
7 flight, Ms. Castro. So as you argue that -- and -- I mean,
8 without overindulging, those were not the only times that the
9 Pretrial Services report indicates that kind of treatment.

10 So you're right. I don't know whether it's malingering or
11 it's legitimate. The history seems to suggest, and I think the
12 testimony at the time of the arrest seems to suggest, that
13 there is, as of yet, unaddressed mental health problems that
14 are one of the characteristics -- or one of the facts that are
15 enumerated in 3142(g) that I have to take into account.

16 But I -- but I don't -- I'm not sure that I'm following
17 your argument that it makes him a serious risk of flight.

18 **MS. CASTRO:** Well, Your Honor, if it is the case that
19 the defendant was malingering and he's willing to
20 potentially --

21 **THE COURT:** Oh.

22 **MS. CASTRO:** -- you know, submit to --

23 **THE COURT:** I'm with you.

24 Okay. Now I understand. Sorry.

25 **MS. CASTRO:** Understood.

1 **THE COURT:** Okay. Now I have your argument. I
2 understand it, though, for what it's worth -- and, Mr. Bell,
3 you'll still have a chance to respond -- does it not, for me,
4 give rise to a concern about whether or not he will be able to
5 comply with the conditions of his bond and the commands of the
6 Court, depending on the -- I mean, that's why it is one of the
7 enumerated factors in the statute.

8 So I do want the mental health addressed.

9 **MR. BELL:** So, Judge, just because he's receiving
10 mental health treatment doesn't mean that he wouldn't comply
11 with the conditions of court.

12 **THE COURT:** But that's not what the evidence is,
13 Mr. Bell. I agree with you. If he was just seeing a
14 therapist, I would --

15 **MR. BELL:** So --

16 **THE COURT:** -- be hard-pressed.

17 **MR. BELL:** So -- and, again, as the Pretrial Services
18 report -- there are incidents of hospitalization in 2010, '19,
19 '20. All that predates these things, again, July 2021. I'd
20 proffer that he's seeing a specific doctor and that the
21 doctor's prescribing him specific medications. None of that
22 suggests that he would not comply with bond.

23 Actually, what it suggests to me is that if he's at FDC,
24 which, in my considered judgment, as an experienced -- and
25 fielding calls from lawyers every other week in this town about

1 FDC, is not likely to render or give him the treatment he
2 needs. It's only going to make this case more difficult to
3 move forward and deal with.

4 What makes sense is that he be released on bond, that the
5 conditions of release include that he continue to see his
6 doctor and whatever other condition you think is necessary to
7 make sure that he receives appropriate treatment and he
8 continue to receive his medications.

9 I can assure you this, that at FDC, I'll bet dollars to
10 doughnuts he won't get those -- that medication.

11 **THE COURT:** I understand. We're not there, and -- but
12 the mental health issue is considerable.

13 What about a third-party custodian?

14 **MR. BELL:** Well, Judge -- I mean, I -- I've talked to
15 Ms. Bergmann with respect -- I'm sorry -- Dr. Martin. I
16 apologize -- my client's wife about that. And, obviously,
17 she's willing to do it -- I don't think it's necessary -- or
18 maybe a third-party custodian with respect to the medical
19 treatment. Yeah, I don't have -- we don't have an objection to
20 that. If you impose it, we'll live by it.

21 But -- but, you know, this -- I think the mental health
22 treatment is necessary. I think he has to continue to see his
23 doctor, based on what I read in the Pretrial Services report.
24 But I don't think, like, we're dealing with some crazy person
25 who can't abide by -- with bond conditions. And, in fact --

1 and during his arrest, he complied, submitted to their
2 authority, and essentially gave himself up when they asked him
3 to.

4 So -- but a third-party custodian is within your
5 discretion, and she'll do it. Uh-huh.

6 **THE COURT:** Okay. Back to you, Ms. Castro.

7 **MS. CASTRO:** Your Honor --

8 **MR. BELL:** And -- I'm sorry, Judge. May I -- I
9 apologize. One more thing. May I?

10 So with respect that -- that my client is deceptive, the
11 manner in which he committed the offense --

12 **THE COURT:** Sorry, but Ms. Castro is still in the
13 middle of her argument. You'll get last word.

14 **MR. BELL:** Oh. I thought -- I thought it was my turn.

15 **THE COURT:** No. I interrupted because I wanted to ask
16 a question.

17 **MR. BELL:** Oh. I'm sorry.

18 **THE COURT:** Sorry.

19 **MR. BELL:** I misunderstood. I apologize.

20 **THE COURT:** Ms. Castro?

21 **MS. CASTRO:** Thank you, Your Honor.

22 The only point -- and I don't want to belabor the point
23 because I think it's already been addressed by the Court. But,
24 again, I just want to reiterate that either Mr. Bergmann
25 legitimately did need to be Baker Acted, which would suggest

1 that he believed he, himself, is a danger to himself and
2 others; or he did not legitimately need that, and he preferred
3 to put himself into a psychiatric ward to avoid being detained
4 in this case.

5 And I think that does suggest that he's a serious risk of
6 flight. And I've touched on the point, and I will move on,
7 Your Honor.

8 **THE COURT:** Understood.

9 **MS. CASTRO:** The only other thing I will point is
10 something that did -- point to is something that did come up
11 briefly during the initial appearance was, again, the conduct
12 that Mr. Bergmann engaged in after the assassination.

13 We talked initially about communications that he had with
14 Mr. Sanon about whether or not a diplomatic vehicle was going
15 to be retrieving the guys, which we understand to be the
16 Colombians that had been retained by CTU and sent to Haiti on
17 behalf of this general mission to unseat President Moïse.

18 This suggests that he's communicating with Sanon about
19 potentially helping these individuals escape after they had
20 been involved in an attack on the President's residence.

21 And I did proffer today additional facts where, after the
22 President had been assassinated, Mr. Bergmann appeared to be
23 attempting to get funds again to funnel towards the guys that
24 were in Colombia [sic], again, presumably to assist with their
25 extraction or their -- their circumstance there in the

1 aftermath of the assassination.

2 So I think, to the extent there's evidence that
3 Mr. Bergmann was trying to help people who were involved in
4 this assassination somehow evade capture, it does speak to his
5 potential risk of flight.

6 And just one more point. I will also add the reference to
7 "It's time for people to hit the streets." As we've discussed,
8 "hit the streets" was part of the plan to help cover up the
9 crimes -- cover up the raid into the President's home.

10 So "hit the streets" is entirely consistent with an effort
11 to, again, help those who had engaged in these crimes avoid
12 capture or avoid being implicated in them, and that was a
13 statement from Mr. Bergmann.

14 **THE COURT:** So you'll recall that, when Mr. Bell
15 resisted even a hearing for this, I had focused on that
16 sentence. And I now, with the benefit of having your full
17 proffer and your agent's testimony, think that I misunderstood
18 it.

19 When I had read it in the complaint, I thought it
20 suggested Mr. Bergmann -- "hit the streets" meaning flee, like,
21 literally, like, "It's time for you guys to hit the skids."
22 And -- but as I understand it now, it's proffered that it's
23 time for sort of the -- I know we've been talking about
24 uprising --

25 **MS. CASTRO:** Yes, Your Honor.

1 **THE COURT:** -- for people to protest.

2 **MS. CASTRO:** Right.

3 **THE COURT:** Well, my point is this.

4 **MS. CASTRO:** Yes, Your Honor.

5 **THE COURT:** So -- and it's with apologies. I put
6 exaggerated importance on a piece of evidence in the complaint
7 that I didn't really understand.

8 So now that I understand that not to mean that he -- that
9 particular statement. I understand your general argument,
10 though, that others told him that people were trying to flee.
11 His response is "It's time for the protests" and that you
12 collectively interpret that to mean to conceal their --

13 **MS. CASTRO:** Yes, Your Honor.

14 **THE COURT:** -- role or --

15 **MS. CASTRO:** Yes, Your Honor.

16 **THE COURT:** Okay.

17 **MS. CASTRO:** Help conceal the crimes that occurred.
18 Yes, Your Honor.

19 **THE COURT:** I understand it better. I just put that
20 out there because I know that I had made those statements at
21 our last hearing.

22 I think that the arguments on serious risk of flight are
23 those that would apply to anyone who has been charged in an
24 indictment and, you know, circumstances that involve a lack of
25 truthfulness, which I think, in this district, is most of the

1 indictments that involve some level of fraud or deceit.

2 The -- I think that if we really distill down what's being
3 said, the argument travels on two things, the mental health and
4 the -- I mean, the global nature of this conspiracy. I
5 understand that he's not charged in Counts 1, 2, 3, Mr. Bell.
6 You don't have to tell me again. I know. Okay?

7 **MR. BELL:** I'm -- I'm quietly listening, Judge.

8 **THE COURT:** But he is -- I understand, but -- but, you
9 know, the -- it's incredibly serious, the nature of the offense
10 in which he's -- or the persons that he has associated with in
11 his role. It's very hard, frankly, in this hearing, to
12 delineate being able to say, you know, the global thing without
13 referring to the part that he's charged with alone.

14 But in terms of a serious risk of flight, knowing that he
15 knew that he was under investigation and being watched for a
16 year and a half, with no indication -- and the agent
17 affirmatively testified to no indication -- of him trying to
18 rid himself of the assets or otherwise prepare for or try to
19 leave the country in any way, shape, or form -- and he was
20 under surveillance. Excuse me.

21 You know, the Government bears the burden here of
22 demonstrating it, and I don't think it's met. I think that the
23 conditions that you're describing -- or the concerns that
24 you're raising -- even as you're saying them, I think that
25 they're reasonably assured with conditions that can reasonably

1 be set.

2 But I'll say this. I strongly suspect that you are going
3 to appeal that decision. So what I plan to do is just write it
4 up in a release order rather than taking the rest of the day
5 from everybody.

6 So -- right?

7 **MS. CASTRO:** I understand, Your Honor.

8 Yes, we would at least ask for a stay so that we can have
9 time to contemplate whether we'll be filing a notice of appeal.

10 **THE COURT:** Right.

11 I mean, I understand --

12 **MR. BELL:** Judge, I object to a stay. It's another
13 weekend my client is sitting in jail. We're ready. We can
14 post the bond today.

15 **THE COURT:** I -- I understand, and yet -- well, let me
16 do this.

17 Okay. In terms of the -- I don't know, Ms. Castro, if
18 you've done this with me before. But I always tell my AUSA
19 that, notwithstanding your position that no bond was the right
20 bond, I still would hear from you on conditions.

21 What I intend to do is articulate the bond that I would
22 enter. Then I would like for you two to talk. It is without
23 prejudice to your position. Okay?

24 **MS. CASTRO:** Understood, Your Honor.

25 **THE COURT:** But if there is anything else that you two

1 would want or that you would advance, you'll tell me.

2 Okay. So what I'll do is I'll finish up the other
3 defendants, and then you two can talk about, you know, how long
4 you need for a stay or whatever it is.

5 Mr. Bell, I know you're going to object. I understand.
6 Without staying --

7 **MR. BELL:** You made a finding that they haven't met
8 their burden. I seriously doubt that's going to -- I mean --

9 **THE COURT:** I understand, but --

10 **MR. BELL:** -- this is not a case to -- to appeal or
11 stay, Your Honor. Well, in any event --

12 **THE COURT:** Well, I understand, but let me just
13 articulate here what it is that I think is the right bond with
14 respect to Mr. Bergmann, who is, you know, as we've said, a
15 U.S. citizen without any meaningful criminal history, who has
16 demonstrated no flight over the year and a half, who, you know,
17 has asset stability.

18 Anyway, I agree in part with the bond that you would have
19 proposed. That is a 550,000-dollar personal surety bond to be
20 cosigned by his wife. The issue that I take is with the cash
21 component in terms of the security.

22 I agree with you that both bonds should be secured by both
23 houses, his parents' and his wife's property as well as his
24 own, the logistics of which -- I will let you talk to
25 Ms. Castro and your client or his wife to articulate exactly

1 how it is.

2 But I think all three properties should have skin in the
3 game, and I think that Dr. Martin -- I think that -- I would
4 have Dr. Martin act as a third-party custodian. I'm going to
5 address her quickly.

6 The -- and then the other conditions -- special conditions
7 to be surrender and not obtain any travel documents or
8 passport, to report to Pretrial Services as --

9 **MR. BELL:** We have them here today and can turn them
10 in.

11 **THE COURT:** I understand.

12 To report to Pretrial Services as directed. In addition
13 to the third-party custodian, home confinement with GPS
14 monitoring, to be paid for -- well -- and that's a question
15 that I would have, Mr. Bell, in terms of the ability to pay.

16 Obviously, I have found that CJA counsel here qualifies.
17 But I would, at least before the monitor goes on, have
18 questions about whether or not he can contribute -- or defer to
19 Pretrial Services to inquire with you and him about whether or
20 not he can participate in that payment.

21 No firearms, no contacts with witness -- or victims or
22 coconspirators except through counsel. Participation in mental
23 health assessment and treatment as ordered by Pretrial
24 Services, which -- if satisfied by his private doctor, that's
25 up to Pretrial Services. Okay?

1 And I -- I -- okay. So those are the conditions that I
2 would impose, but I'm going to give you both a chance to speak
3 and both talk to me about how that would financially be
4 secured, like, the language. But I want you to talk to
5 Ms. Castro about it first.

6 **MR. BELL:** Understood.

7 I do want to say that my understanding is that, by having
8 her sign the bond and imposing a condition that she can't sell
9 or further encumber --

10 **THE COURT:** What about the parents?

11 **MR. BELL:** No. They own -- the parents don't own that
12 house. He and his wife do.

13 **THE COURT:** Oh. I thought it was their house. It's
14 just where they're residing?

15 **MR. BELL:** It's where they're residing.

16 **THE COURT:** That's right. I remember that.

17 **MR. BELL:** So by -- by putting her on the bond --

18 **THE COURT:** Okay.

19 **MR. BELL:** -- you've put all her assets in play --

20 **THE COURT:** Okay.

21 **MR. BELL:** -- including that particular property,
22 which seems to be the one that you're concerned about.

23 **THE COURT:** Okay. So no encumbrance of property, no
24 sale.

25 Okay. All right. So notwithstanding, I'm still going to

1 ask you-all to take --

2 **MR. BELL:** Sure. Of course.

3 **THE COURT:** -- the time that you need -- now, I know,
4 Ms. Castro, you've got a whole team there --

5 **MR. BELL:** Oh.

6 **THE COURT:** -- but you've got two other defendants up.
7 So can you -- can someone legitimately talk to Mr. Bell?

8 **MS. CASTRO:** Of course.

9 **THE COURT:** Okay.

10 **MS. CASTRO:** Yes. Yes, Your Honor.

11 **THE COURT:** While I turn to the others.

12 And -- and, Pretrial, you'll have another chance up to
13 tell me if there were other conditions as well. Let me just
14 hear from the parties.

15 **PRETRIAL SERVICES OFFICER:** Thank you, Your Honor.

16 **THE COURT:** Okay. Okay. And so then let me --
17 Ms. Holt, Mr. Caruso, can I -- should I finish out the other
18 defendant and then, in the manner that we've discussed, finish
19 out your hearing?

20 **MS. HOLT:** Yes, Judge. I am happy -- I just have a
21 few arguments regarding that issue. We could do it at sidebar,
22 as long as it's on the record. I'm fine with that. I don't
23 need to ask questions of the agent.

24 **THE COURT:** Okay. Okay.

25 **MS. HOLT:** So however Your Honor wants to proceed with

1 that.

2 **THE COURT:** I'm soliciting suggestions. So if there's
3 another procedure that you want me to do, just tell me now.

4 **MS. HOLT:** I can make the bulk of my argument
5 regularly. And then just a couple arguments --

6 **THE COURT:** Okay.

7 **MS. HOLT:** -- that I wanted to make, we can do at
8 sidebar on the record, if that suits the Court.

9 **THE COURT:** All right. Okay. Then if I just stay an
10 order and take up the next defendant and then do yours then?

11 **MS. HOLT:** That works, Judge.

12 **THE COURT:** Okay. All right. So, Ms. Kudman?

13 **MS. KUDMAN:** Thank you, Your Honor.

14 **THE COURT:** Same -- same thing. I always tell
15 everybody what I'm thinking, and then you can structure your
16 argument.

17 **MS. KUDMAN:** Yes.

18 **THE COURT:** And I will tell you that a number of
19 incredibly meaningful points were brought out in your
20 cross-examination. None of it was lost on me.

21 **MS. KUDMAN:** Okay.

22 **THE COURT:** The presumption here attaches on your
23 defendant.

24 **MS. KUDMAN:** Understood.

25 **THE COURT:** And so the question that I am singularly

1 focused on is whether it's been overcome. And even if it has,
2 that presumption remains ever-present, and it's -- I mean, in
3 some cases, it's just there. But in this case, it's also tied
4 to the circumstances of the offense, the strength of the
5 evidence, like it's everywhere.

6 **MS. KUDMAN:** Understood.

7 **THE COURT:** Okay. And in terms of, you know, his --
8 his compliance and his lawfulness over the last year and a
9 half, honestly, what's running through my head is, is that
10 enough to meaningfully overcome the presumption in this case?

11 So that's the question that at least is going through my
12 head. Now you know.

13 **MS. KUDMAN:** Understood, Your Honor.

14 And, Your Honor, this is a very serious allegation --
15 there's no question -- and, obviously, the presumption attaches
16 because of that.

17 But what I would ask the Court to remember is that the
18 presumption is to be considered with all other evidence in the
19 record but does not affect the ultimate burden of proof, which
20 remains with the Government to show --

21 **THE COURT:** All times.

22 **MS. KUDMAN:** -- both dangerousness and risk of flight.
23 So there's no -- but -- I mean, the case law --

24 **THE COURT:** I under- --

25 **MS. KUDMAN:** -- that I can --

1 **THE COURT:** I understand that. I understand.

2 **MS. KUDMAN:** You know, *U.S. v. Quartermaine*.

3 **THE COURT:** Uh-huh.

4 **MS. KUDMAN:** It's very clear that the Government still
5 has to prove that there's a danger to the community and a risk
6 of flight here.

7 And, of course, when we're dealing with serious cases with
8 serious allegations, that is why Congress chose to adopt this
9 addition to the Bail Reform Act because there is a different
10 calculation when you're dealing with this type of case.

11 But at the end of the day, it's just a burden of
12 production that is on the defendant now, not a different burden
13 of proof. The Government still maintains the burden of proof.
14 And if you look at the facts here, Your Honor, I think that the
15 Government has, in fact, itself proven that we don't have a
16 danger to the community or a risk of flight.

17 Since July of 2021, Mr. Veintemilla has been living in
18 this community, of which he is a U.S. citizen, with three
19 children, who he is raising. Now he's -- he's remarried and
20 has a wonderful, stable marriage of 11 years. But the mother
21 of his children passed away, and he has a severely handicapped
22 child that he is really the sole caretaker for.

23 And he has remained here. He has made no indication that
24 he has any desire, or has made any attempt, to sell his home,
25 to dispose of assets, to do anything to -- to prepare himself

1 to leave this territory. He engaged counsel immediately. He
2 spoke with the Government.

3 Now, the Government doesn't believe his version of events.
4 They don't believe that he didn't realize this was going to
5 turn into a, quote -- they're calling it kidnapping. Some
6 might call it an arrest, slash, assassination.

7 But he did go and voluntarily speak with the Government.
8 For a year and a half, we have been regularly communicating
9 with the Government, engaged in discovery with the Government
10 in terms of -- there was a privilege team that was put in
11 place, and we've been working with them successfully.

12 Mr. Veintemilla has asked me repeatedly to tell the
13 Government, "Please, if they want me to surrender myself, I'm
14 here. I have a child at home who's severely handicapped. My
15 children are already traumatized from the search warrant that
16 was executed in his [sic] home."

17 We -- I have communications for the Court, regular
18 communications, where we are checking in, saying
19 Mr. Veintemilla is ready to, you know, come in voluntarily and
20 surrender himself.

21 He has known that the Government has been considering
22 charging him with these very serious offenses for a year and a
23 half, and the only thing that he has done is hire an attorney
24 to face and confront the allegations against him and cooperate
25 with the Government's investigation.

1 Your Honor, for your evidence, there was reference to four
2 additional individuals being charged a week ago, and that
3 started some additional surveillance. Mr. Veintemilla notified
4 me immediately because he observed the agents following him and
5 surveilling his home. He asked me to, again, reach out to the
6 Government and say, "Look, if they want to arrest me, please
7 just let me know. I'll come in. Tama, drive me there."

8 I reached out to the Government. And if Your Honor wants,
9 I can hand up the email.

10 **THE COURT:** I mean, you --

11 **MS. KUDMAN:** "Good morning, everyone. Can we please
12 arrange for a call. Mr. Veintemilla and I are aware of recent
13 arrests in this matter, and Mr. Veintemilla believes that he's
14 being followed by agents."

15 "Mr. Veintemilla is concerned for the emotional welfare of
16 his children under these circumstances and has asked me to
17 reach out to let you know that if an indictment is pending or
18 anticipated to be filed against him, he will turn himself in
19 voluntarily so that his family can avoid the trauma of seeing
20 him arrested."

21 "As you know, Mr. Veintemilla has made himself available
22 to the Government throughout this process and will continue to
23 do so. We ask that you extend this courtesy to him and his
24 children. Thank you in advance."

25 We have consistently been here. He has gone nowhere. And

1 I would emphasize to Your Honor that the charge of providing
2 material assistance to a potential assassination or kidnapping
3 is very serious, but his participation was financial. It's not
4 alleged that he's a dangerous person. My point is he has no
5 criminal history. This is not a person that we have to worry
6 about going out on the streets and hurting somebody.

7 Okay. The danger that he posed -- quite frankly, you
8 know, it's over. He has no history of violence whatsoever at
9 all. He is diabetic. He's on medication. He's a family man.
10 His entire family now lives here.

11 He was born in Ecuador, but he is a U.S. citizen. When
12 the search warrant was executed on his home, all of those
13 travel documents for both the United States and Ecuador were
14 seized. He has made no attempt to renew any of those
15 documents, and his whole family is here, other than his elderly
16 father. The last time he visited Ecuador was in 2016.

17 So this is not a person who travels regularly. He is
18 squarely here in the United States. And, again, no assets have
19 been disposed of, moved, nothing. And although his new wife is
20 wonderful and has assisted him tremendously with the rearing of
21 his children, he is responsible. He is the primary caretaker
22 of his severely disabled child. He has every reason in the
23 world to stay here and to clear his name through the jury
24 process.

25 The agents have told you that, on the day that they went

1 to arrest him, they called him on the phone. That is a
2 courtesy that is not generally extended to people that they
3 intend to arrest. They were not anticipating any resistance
4 from him whatsoever. They didn't show up with a SWAT team.
5 They showed up with two patrol cars because they knew that he
6 would walk out and turn himself in.

7 They extended to him the courtesy of going in and changing
8 his clothes and hugging his family and saying so long to his
9 children because they knew he was not a danger, and he was not
10 going to do anything to evade law enforcement or to be
11 dangerous to them. And I would submit to you that there are
12 conditions that can be imposed to neutralize any perceived
13 either danger to the community or risk of flight.

14 First of all, Your Honor, I would tell you that this
15 courtroom -- I would ask everybody who's here for
16 Mr. Veintemilla to stand up. Your Honor, we have spoken with
17 eight individuals, in total, who are willing to sign personal
18 surety bonds on his behalf, and we would propose an amount of
19 \$2 million.

20 We additionally have five individuals, including his wife,
21 who is a co-owner of their family home, who are willing to
22 secure that personal surety bond with their homes. Included
23 among those people are his former brother and sister-in-law,
24 the -- the brother and sister-in-law of his first wife, who
25 passed away.

1 Although they are no longer blood -- you know,
2 theoretically related to Mr. Veintemilla, they love him. They
3 believe in him, and they trust him, and they are willing to
4 secure the bond with their home, five people who are willing to
5 do that. We have over \$3 million of equity between all of the
6 homes, including Mr. Veintemilla's, that is willing to be
7 pledged to secure a bond.

8 In terms of dangerousness, in -- in this way, Your Honor,
9 it would be suggested that he have no access to computers, to
10 banking. We can put in place a GPS monitor. His wife is
11 willing to be his custodian and report to the Court if he does
12 anything that's not in compliance with the bond, and we would
13 be willing to impose a third party as well.

14 Your Honor, I would also note that one of the concerns
15 usually in a conspiracy involving violence is that a person
16 who's free on bond might intimidate witnesses or try to
17 obstruct justice. Mr. Veintemilla has been living freely for
18 over a -- close to two years now, and there has been no
19 allegation that he has had any improper conduct with anybody
20 involved in this case.

21 And so, again, there is simply no indication that
22 Mr. Veintemilla -- Veintemilla is a threat or a danger to his
23 community or that he is a risk of flight. He gladly submits to
24 any conditions that the Court deems appropriate.

25 Now, Pretrial indicated that there's financial instability

1 because Mr. Veintemilla -- since this has been in the news,
2 his -- his financial business has obviously been harmed. His
3 income is lower, but that also speaks to the fact that he
4 doesn't even have the means to flee.

5 And as to his house, which we estimate -- there -- there
6 are encumbrances on his house, but we estimate there's anywhere
7 from 500,000 to a million dollars of equity in the home. The
8 Government has already placed a lis pendens on that house
9 because there's a forfeiture allegation.

10 I don't understand the forfeiture allegation, to be honest
11 with you, because there's no allegation that the house was used
12 in the commission of this crime. I've asked the Government why
13 there's a forfeiture allegation. They've told me to speak to
14 the forfeiture people. I just don't know.

15 But notwithstanding that, we can still pledge that house
16 as part of the security package, and we do so. But in terms of
17 other assets, Mr. Veintemilla really -- they're struggling to
18 support the household as it is. He does not have the means to
19 go anywhere.

20 Your Honor, I would also like to cite from a recent
21 opinion written by Magistrate Reinhart up in West Palm Beach.
22 "Even if there is a risk of nonappearance and/or risk of danger
23 to the community, detention is only warranted if those risks
24 cannot be sufficiently mitigated by conditions of release, and
25 those risks cannot be mitigated completely. A person cannot be

1 detained if there are conditions that reasonably would assure
2 the appearance and the safety of the community."

3 I submit to you that we have proposed such conditions, and
4 I would say this, Your Honor. It's impossible to have zero
5 risk. In any case, there's a risk of flight. Anybody can
6 choose one day to try to flee.

7 But with GPS monitoring, with his entire family and
8 friends, people unrelated to him, willing to put these
9 tremendous assets, their -- their most substantial assets, on
10 the line for him, I think that speaks to who they believe he
11 is, and I think his actions confirm that. He has been here.

12 I would also note -- actually quote Mr. --
13 Magistrate Reinhart in saying, "Given the choice at the margin
14 of release or detention, Congress chose the former." So if
15 you're teetering between, you know -- this is a very serious
16 case, and there is a presumption, and it's always present.

17 But on the other hand, if we've got all of these
18 conditions that are being proposed and all these people who
19 believe in him and his actions that speak of his willingness to
20 subject himself to this Court and this proceeding, then you
21 have to, under the law, err on the side of giving him bond.
22 Congress set it up that way.

23 So, again, Your Honor, if there are any other specific
24 concerns that I can address -- you know, we -- we have the
25 technology to secure him at his home, to make sure he does not

1 flee. We can cut him off from any communications that could
2 possibly -- I don't know what danger he could possibly pose to
3 the community.

4 The Government has not articulated that he is a presently
5 dangerous person.

6 **THE COURT:** Well, on that note, the Government
7 actually hasn't had a chance to argue at all. And so when you
8 say is there anything else that you can address, the answer is
9 maybe. You'll get the last word, and I'm going to turn to the
10 Government for their presentation.

11 **MS. KUDMAN:** Thank you, Your Honor.

12 **THE COURT:** Okay. Thank you, Ms. Kudman.

13 **MS. CASTRO:** Thank you, Your Honor.

14 First, I just have to --

15 **THE COURT:** Are you okay?

16 **THE CLERK:** Yeah.

17 **THE COURT:** Okay. Sorry, Ms. Castro.

18 **MS. CASTRO:** Yes.

19 I just -- I disagree wholeheartedly with the assertion
20 that the Government does not deem Mr. Veintemilla dangerous,
21 just as I disagree with the notion that Mr. Veintemilla, quote,
22 "just offered money." Let's be clear about what happened in
23 this case.

24 Mr. Veintemilla funded the travel of soldiers that were
25 sent to Haiti and ultimately went into the President's home and

1 assassinated him. This does not occur without the money that
2 Mr. Veintemilla funneled into this endeavor -- okay? -- and he
3 did it solely for his own potential financial gain and the fact
4 that he thought he had an opportunity to benefit from this
5 human being's demise.

6 So the question stands. What, again, could he do if he
7 stands to save his own life? Because he now faces life
8 imprisonment. He's now indicted on charges for which he faces
9 life imprisonment. If he's willing to funnel his resources
10 into helping the assassination of a President because he might
11 get some money out of it, what might he be willing to do in
12 order to avoid potential life in prison?

13 His money paid for the soldiers that went down to Haiti.
14 His money paid for ammunition. He wired \$15,000 to be sent for
15 ammunition, "screws and nails," for the soldiers that were
16 there to help oust President Moïse.

17 This is absolutely someone who, as the presumption
18 suggests -- I apologize -- for a nature of -- for a charge of
19 this case -- of this nature, represents a danger to the
20 community and a risk of flight.

21 Now, I understand, as defense counsel asserted, that --
22 she made a reference to there was no fear that Mr. Veintemilla
23 was going to run out and start shooting at the agents.

24 First, I want to be clear that the manner in which his
25 arrest was conducted is entirely consistent with my

1 understanding of how arrests are conducted generally. I would
2 also note that there was particular concern with sensitivities
3 that had been raised as to Mr. Veintemilla's children.

4 So to the extent that certain courtesies were afforded to
5 avoid trauma to the children, I don't think that that suggests
6 that the Government or the agents on the scene did not believe
7 that Mr. Veintemilla could be a potential danger.

8 Moving on from that point, back to the reference of him
9 coming out and -- you know, and potentially shooting at the
10 agents, I don't think that it should inure to Mr. Veintemilla's
11 benefit that he stayed within the safety of his home, where he
12 funneled money to this endeavorer and sent messages on his
13 phone and communicated with people on the ground who went in
14 and actually did the assassination.

15 The fact that he was pulling the purse strings from behind
16 the scenes makes him just as dangerous as the people whose
17 violence he facilitated in Haiti, and the communications in
18 this case make clear that Mr. Veintemilla was well aware that
19 he was assisting an endeavor that could potentially result in
20 violence and certainly death.

21 The references to, quote, "Hit the rat" cannot be
22 characterized as anything other than an expected attack on the
23 President, particularly not when one considers that this is
24 alongside coded communications referring to screws and nails.

25 If Mr. Veintemilla was there to provide security for

1 Mr. Sanon because he wanted Mr. Sanon to be safe, he would have
2 called them by their actual terms. He used those coded
3 references because he knew he was engaged in criminal conduct,
4 and he wanted to cover his tracks.

5 The evidence makes clear that Mr. Veintemilla was well
6 aware of the usage of, for example, the term "neutralizers"
7 to -- as terminology for the men that had been sent to Haiti.
8 This is going back to this whiteboard, where they outlined a
9 potential attack on the palace.

10 The word of "warriors and neutralizers," all sent to
11 Mr. Veintemilla before he further funded travel by Mr. Sanon
12 over to Haiti. This is absolutely someone who represents a
13 danger to the community and, of course, a risk of flight.

14 I understand that Mr. Veintemilla, again, had an
15 indication that he was -- he had been implicated, but he now
16 knows that he is indicted. He now faces life in prison. He
17 now sees the significant evidence against him that he is likely
18 to be convicted of the charges that were presented in the
19 indictment.

20 **THE COURT:** May I ask a question?

21 **MS. CASTRO:** Yes, Your Honor.

22 **THE COURT:** You just -- you just -- and it was
23 probably part of somewhere in the last five-hour hearing, and I
24 apologize.

25 **MS. CASTRO:** Yes, Your Honor.

1 **THE COURT:** But the -- there was evidence that there
2 was money sent by Mr. Veintemilla after the whiteboard was sent
3 to him?

4 **MS. CASTRO:** Yes, Your Honor.

5 So this was the -- these are the two exhibits -- and I can
6 hand them up to the Court -- that I had presented.

7 **THE COURT:** I have the whiteboard here, but --

8 **MS. CASTRO:** Yes, the whiteboard. And so that's
9 Exhibit 1.

10 I had also presented Exhibit 3 to Mr. Ferlazzo, and this
11 is the fund draw request that actually defense had initially
12 raised, and this was funding Mr. Sanon's travel to Haiti. And
13 that request happened on, I believe, May 19th.

14 **THE COURT:** That's what this one says.

15 And the whiteboard was what date?

16 **MS. CASTRO:** And the whiteboard -- the communication
17 that the agent testified contained the whiteboard being sent to
18 Mr. Veintemilla showed that it was sent to him on May 6th.

19 **THE COURT:** Okay. I took you off script. Thank you
20 for answering that question.

21 **MS. CASTRO:** No. Of course, Your Honor.

22 I am looking to identify -- just one moment.

23 Okay. I want to also refer Your Honor to the reference to
24 Mr. Veintemilla sending \$15,000 for screws and nails, weapons
25 and ammunition. That was on June 3rd of 2021. So that's

1 nearly a month after Mr. Veintemilla received this message with
2 the whiteboard referring to warriors, neutralizers, and
3 snipers.

4 And, again, going back to the notion that all he did was
5 provide money, if you look at the way that this unfolded, as
6 this escalated to the -- towards the night of the
7 assassination, what we have is Mr. Veintemilla, as he loses
8 more and more money, sending messages insisting that the
9 operation go forward, making statements that "We have to have
10 the party," warning his coconspirators that it's getting very
11 dangerous for them and, quote, "This is why we are pressuring
12 for things to happen."

13 He says the party has to happen, or the personnel is
14 leaving, is coming back. The personnel are the Colombian
15 soldiers who were sent to Haiti to carry out this operation
16 against President Moïse. He's essentially telling these
17 people, "You make it happen, or I'm getting your armed men out
18 of there."

19 This does not come to fruition without Mr. Veintemilla's
20 funding and insistence. And I'll remind the Court that on
21 July 6th, immediately before the assassination, Mr. Veintemilla
22 says, "That's it. Until Individual 2 is present" -- "is
23 President, I can't get you any more money."

24 What happens within 24 hours? President Moïse is dead.
25 This is by no accident. Mr. Veintemilla was absolutely adding

1 the pressure, and those on the ground in Haiti, who he sent to
2 Haiti, knew that he was going to cut off the money, and so
3 things needed to happen immediately. And then we find
4 Mr. Moïse shot 12 times in his bedroom, with his wife also
5 suffering gunshot wounds.

6 So I disagree with the idea that he, quote, "just provided
7 money." Without the money, none of this happens. I think the
8 record here makes absolutely clear that, even without the
9 presumption, this is a defendant that facilitated a murder
10 knowingly, and he should be detained.

11 **MS. KUDMAN:** Your Honor, if I could respond.

12 **THE COURT:** Please.

13 **MS. KUDMAN:** Actually, on July 6th, what
14 Mr. Veintemilla said is "Until President Moïse was out of
15 office and the new President sworn in, there would be no more
16 funding for security for Sanon." All of the messages that
17 they're referencing talk about Sanon, and they, themselves,
18 posit this notion of two different conspiracies.

19 The Government has stated that, initially, there was this
20 conspiracy to have Moïse removed by popular marching and
21 demonstration and people -- what's the word I'm looking for? --
22 demonstrating and putting pressure on Moïse to step down and
23 then Sanon becoming President. And then, later on, there's
24 talk about installing another individual who's then going to be
25 President. And over time, it becomes more violent.

1 Your Honor, the reason that I handed up to you that white
2 paper for you to look at is because, if you look at that, I --
3 I couldn't tell you what that sheet means.

4 **THE COURT:** Are you talking about the whiteboard?

5 **MS. KUDMAN:** The whiteboard.

6 And that's where the terms "neutralizers" -- the
7 understanding is that -- that Moïse is a dangerous President
8 who uses, I mean, his police force basically like gangs, and he
9 goes after people who are dissenters and who are challenging
10 his Presidency. People have been known to be abducted,
11 arrested, et cetera.

12 The term "neutralizer" -- I mean, there's a lot of
13 interpretation here by the Government that I don't see any
14 basis for. They're surmising that "neutralizer" means, like,
15 assassins. "Neutralizers" can also mean people who are there
16 to protect Sanon and make sure that these gangs of thugs can't
17 threaten him when he's demonstrating, when he's speaking to the
18 people.

19 There was supposed to be a day where there was supposed to
20 be a demonstration, and it was all supposed to converge to put
21 pressure on Moïse so he would step down and so that
22 President Sanon could, in effect, step up to power. And as the
23 Government itself conceded, the discussions of violence and
24 perhaps arresting him came much later.

25 And although he got that email on May -- by the way, a

1 month after it was originally sent to another person, it's sent
2 to Mr. Veintemilla, and there's no explanation as to what it
3 is. He doesn't know what he's looking at. And so this notion
4 that he knows he's sending guerillas to go in and -- and
5 assassinate the Haitian President at that time back in May --
6 there is absolutely no evidence to support that.

7 He only signed the line of credit with CTU on April 30th,
8 and so this is seven days later. This is early. This is when
9 they're still thinking Sanon is going to try to become the next
10 President of Haiti and reinstate a democratic government with
11 real democratic processes.

12 So, again, the Government keeps talking about him funding,
13 him being willing to use money to effectuate this change. This
14 is a line of credit that the agent admitted is being financed
15 by investors.

16 These are people who believe that they are investing in an
17 operation to bring stability and safety and a real democratic
18 institution to Haiti with public works projects. They think
19 that they're doing water projects, electric projects.

20 The financial incentive that the Government is talking
21 about is that Mr. Veintemilla had met with one of the mayors of
22 one of the districts in Haiti over the phone, and there was an
23 interest in being able to supply clean water to that district.
24 This was not, like, some, like, golden opportunity for
25 Mr. Veintemilla to make a fortune of money. These are all,

1 like, bond projects.

2 So, you know, I don't know what financial incentive
3 they're talking about. This is what Mr. Veintemilla does. He
4 goes to third-world nations and helps them to build
5 infrastructure. That's what he was doing, and Moïse had no
6 interest in doing that. None of that could take place unless a
7 democratic President was elected so that democratic
8 institutions could -- could be in place.

9 But when he agreed to condone this line of credit and to
10 put investors in place for it, again, this is early. They were
11 talking about demonstrations that would lead to Moïse to step
12 down, because he lacked popular support, and for Sanon to
13 hopefully be able to be in contention to be President.

14 **THE COURT:** Ms. Kudman, I'm going to cut you off to
15 make the observation that, while your arguments are incredibly
16 powerful, I think that they also very much go to the merits of
17 the indicted allegations. And for purposes of my hearing --

18 **MS. KUDMAN:** I know.

19 **THE COURT:** -- I mean, I contextualize it as strength
20 of the evidence, but you've already noted that it's -- it
21 depends on interpretation.

22 **MS. KUDMAN:** Yep.

23 **THE COURT:** And so I accept that a jury may hear this
24 very differently. But from where I sit, I have an indicted
25 case, and I've heard substantial testimony --

1 **MS. KUDMAN:** I understand, Your Honor.

2 **THE COURT:** -- that I have to look at in a -- you
3 know, collectively, as you said.

4 And so, you know, the -- again, the arguments are
5 incredibly powerful, and they will have their day. I just
6 don't know that they're -- well, I'll just -- it is not moving
7 the needle for me in terms of the -- okay.

8 So from my perspective, in terms of telling you that, I
9 understand that the bond you are recommending is probably the
10 most substantial bond -- or one of the most substantial bonds I
11 have heard in five years and -- in terms of overcoming
12 conditions.

13 And yet the concern that I have or what -- as I sit here,
14 wondering whether the presumption has been rebutted but -- or,
15 more importantly, whether those conditions meaningfully assuage
16 or assure the safety of the community/risk of flight, what I'm
17 looking at is a complex, multi-month, multi-defendant,
18 multi-country conspiracy to accomplish something that could not
19 have been facilitated but for your client's role.

20 And what, at least, I have here is fairly strong evidence
21 to support the allegation that he not only knew but fully
22 intended the outcome with which he's been charged. I am not
23 going to try your case, but -- you know what I mean? Like --
24 so --

25 **MS. KUDMAN:** Which is what I'm trying to address,

1 Your Honor --

2 **THE COURT:** Right.

3 **MS. KUDMAN:** -- because, you know, the Government is
4 focusing in on -- you know, on May 15th, there's -- or
5 May 19th --

6 **THE COURT:** 19th.

7 **MS. KUDMAN:** -- there's this draw- --

8 **THE COURT:** Yes.

9 **MS. KUDMAN:** -- -down on the line of credit. First of
10 all, the line of credit had been issued on April 30th.

11 **THE COURT:** I understand.

12 **MS. KUDMAN:** So it was theirs to draw down on. These
13 are memorializations of the drawdowns. So --

14 **THE COURT:** Understood.

15 I understood that proffer to essentially say, "Look, by
16 May 5th, they send him a battle plan, and he doesn't cut it
17 off. He allows them to continue to draw down on it."

18 **MS. KUDMAN:** Right.

19 **THE COURT:** That's how I understand the proffer.

20 **MS. KUDMAN:** But I'm trying to explain that there's no
21 evidence he understood that battle plan because there's no
22 explanation with that plan. There's no -- there's nothing
23 about that, quote/unquote, "battle plan."

24 **THE COURT:** I understand your position. I think that,
25 in the context, and limited to this hearing, there are -- there

1 is circumstantial evidence that allows me to at least to make
2 that inference here today.

3 **MS. KUDMAN:** But I would ask that you also consider
4 that there are alternative -- alternative explanations for what
5 that map is, which is they're talking about a demonstration
6 where Sanon has his security people and the people they're
7 putting in place to provide security for hopeful --
8 presidential hopeful Sanon.

9 So, you know, the terms that they're -- they are asking
10 you to interpret as battle plans for an assassination or
11 kidnapping can also very strongly, on this evidence, be
12 interpreted in a more neutral way, which is "We're setting up
13 for a demonstration. We're trying to get an unpopular,
14 murderous President to step down so that a more democratic
15 President can step up."

16 And by the way, Your Honor, I'm not saying anything that
17 the United States itself didn't say. I mean, at this time, the
18 United States -- several Senators were putting pressure for
19 regime change in Haiti. So --

20 **THE COURT:** How do I contextualize that for this
21 argument?

22 **MS. KUDMAN:** And you can't. But my point is,
23 Your Honor, that looking at that map tells you nothing because
24 the Government is saying to you, "Oh, interpret it this way."
25 And I'm saying to you, "Oh, interpret it that way." The point

1 is you don't have the evidence in front of you to help you
2 interpret it either way. That's what a trial is for.

3 And what I'm suggesting to you is there are multiple ways
4 to interpret this, and none of it suggests that Mr. Veintemilla
5 was aware that there was going to be an assassination or -- or
6 kidnapping at that point. The -- the Government itself --
7 their own agent said it didn't move to that until later. In
8 fact, I believe the agent's testimony was it wasn't until late
9 May or June that some parties of the conspiracy were starting
10 to talk about that.

11 And, certainly, there's no evidence, I mean, other than
12 that whiteboard, which -- we don't know what it is -- was sent
13 to Veintemilla. And, again, this is a man with zero history of
14 participating in social unrest, never mind a full-out
15 government coup.

16 He has no criminal history. He has friends and family
17 willing to put their entire financial futures on the line for
18 him.

19 **THE COURT:** Interestingly -- or unintentionally, I
20 mean, where you -- where you've ended is exactly what's run
21 through my head in terms of the -- the nature of the
22 allegations and the -- the difficulty that I have in finding
23 that there are bond conditions that reasonably -- reasonably --
24 I agree a hundred percent. That's exactly what the statute
25 says, and there is no certainty, and the Bond Act doesn't allow

1 me to require it.

2 And yet as I have sat here -- and I have had all week to
3 think about conditions that I thought -- assuming that the
4 presumption was rebutted, what conditions would reasonably
5 assure. And the nature of his role in the conspiracy, for
6 which there was substantial evidence -- I -- you know, I don't
7 find that there are conditions that I could set that reasonably
8 assure.

9 I think, though, that -- you know, you've mentioned -- and
10 I understand that -- you know, where the burden ultimately
11 lies. But in terms of, you know, keeping the -- either the
12 hearing open or remove -- moving to reopen for evidence or see
13 if Judge Martinez sees it differently.

14 But with respect to what he's been doing over the last
15 year and a half, each side has argued what that should mean in
16 terms of this hearing. And I don't know -- and I'm trying not
17 to rule in the hypothetical -- what additional evidence there
18 would -- would look like or mean.

19 But on the evidence that I have -- I have considered your
20 bond package, and I disagree that it reasonably assures the
21 safety of the community or the risk of flight. And a written
22 order will follow so that you can decide what you want to do
23 with it. So don't take all of my comments here in court to be
24 fulsome.

25 The work in the other countries -- while neither side has

1 argued it extensively, I will at least tell you that it weighs
2 on my mind in terms of a risk of flight, that that is -- that
3 is how, as I understand it, he comes into or perceives it. But
4 the ties to the other -- other countries is, again, a factor
5 that I have to consider under the bond statute.

6 I only enumerate it because, to be clear, I'm not really
7 sure how to evaluate it. It's, like, a thing, but I don't know
8 how much of a weight it should --

9 **MS. KUDMAN:** Your Honor --

10 **THE COURT:** -- deserve in this particular hearing.
11 It's just an additional piece of evidence.

12 **MS. KUDMAN:** Your Honor, he hasn't left the country
13 since 2016, and all of his work there was voluntary with, like,
14 relief organizations.

15 **THE COURT:** Okay. Well, then I'm glad I raised it.

16 **MS. KUDMAN:** He has no family in any of those
17 countries. This is a man who has spent his life in community
18 work projects to better the lives of people. So, you know --
19 and, again, the Government has his travel documents, and he has
20 made no attempt to replace them or go anywhere.

21 Your Honor, I just have to ask, for the record, what
22 danger is it that you would want to see nullified so that
23 perhaps I can address a condition that might satisfy your
24 concerns?

25 **THE COURT:** I'll answer you on the condition, though,

1 that you look to a written order as well.

2 **MS. KUDMAN:** I will.

3 **THE COURT:** Okay. Because I'm, candidly, doing the
4 best that I can after five hours --

5 **MS. KUDMAN:** Understood.

6 **THE COURT:** -- of trying to --

7 **MS. KUDMAN:** We're all skating.

8 **THE COURT:** -- stay focused also on your -- your
9 client, in particular.

10 But as -- at least in my notes and with respect to the
11 nature of the offense and his role in it, with respect to their
12 communications and what he here tried to accomplish by
13 essentially removing a President from another country, there --
14 I think it speaks to a threat not only of -- as you've pointed
15 out, there's not another President -- I'm sorry that that
16 sounds callous -- that there's any reason to think about
17 deposing but, rather, a willingness to hurt people for private
18 gain, which could be witnesses.

19 Truly -- I mean, on these facts, I'm not really sure who
20 it would be limited to. But the willingness to encourage,
21 counsel, fund, and participate in these acts for private --
22 personal gain speaks to his dangerousness.

23 I -- I appreciate that you suggested the lack of access to
24 a computer. The problem is, though, the -- and I'm sorry to
25 take experience from another case, but the last time that I had

1 someone go after a witness, they did so by word of mouth, and
2 so the access to the computer didn't help.

3 And, again, it's not "no risk." It's reasonable
4 assurance, and this was a complex conspiracy among many
5 conspirators, who communicated in a lot of different ways.

6 So, candidly, Ms. Kudman, that's the -- that is the
7 dangerousness that I see.

8 **MS. KUDMAN:** So eliminating computers from the home
9 or -- and denying him a phone wouldn't satisfy that concern,
10 Your Honor?

11 **THE COURT:** I think it speaks to it, but is it enough
12 to reasonably assure his -- you know, I hope that I've been
13 transparent enough to tell you what I was thinking, and
14 that's -- that is the concern in terms of, you know, what the
15 nature of -- and how many people had to be involved to pick up
16 one piece after another.

17 There was no one person. You know, his role is not
18 sufficient to have gotten the whole thing done; right? They
19 all worked together.

20 I'm going to just say that anything else, I would try to
21 memorialize in the order so that you can decide whether it's
22 that you want to move to reopen and then do something else or
23 make a different suggestion in terms of the bond package or
24 just to appeal to Judge Martinez.

25 **MS. KUDMAN:** Okay.

1 **THE COURT:** Okay. Because -- lest I get less careful
2 with my words.

3 **MS. KUDMAN:** Thank you, Your Honor.

4 **THE COURT:** Okay. Ms. Kudman, that was a really
5 thoughtful presentation, and you gave me a run for my money
6 here, and I tell you that I really have -- I kept an open mind,
7 but I've been thinking about it all week.

8 **MS. KUDMAN:** Thank you.

9 **THE COURT:** Thank you.

10 Alicia, do you need a break before Ortiz?

11 **THE CLERK:** No. I'm good.

12 **THE COURT:** Okay. Okay. Ms. Holt?

13 **MS. HOLT:** Thank you, Judge.

14 **THE COURT:** So as going last, you hear the benefit of
15 all the concerns. You said that you had a proffer. Is it
16 anything you wouldn't anticipate me to understand from what I
17 already know from the sidebar proffer, or are there additional
18 facts?

19 **MS. HOLT:** Yes, Judge, a few.

20 **THE COURT:** Okay.

21 **MS. HOLT:** Do you want to take those first?

22 **THE COURT:** I do.

23 I also just -- I don't -- I mean, it's an open courtroom,
24 and anyone who wants to be here is welcome to go, but it's sort
25 of a shift change as well. So as we switch to Mr. Ortiz, if

1 your hearing is over and you want to go, no one's offended by
2 you standing up.

3 Go ahead, Ms. Holt.

4 **MS. HOLT:** Thank you.

5 (Unrecorded sidebar.)

6 **THE COURT:** Okay. Ms. Holt, I appreciate your
7 proffer, which we'll note was not disputed by the Government.
8 So we're not going to call a witness to that.

9 Let me ask, logistically, whether we can finish out the
10 hearing and do the waiver or whether we need to do it, or
11 what's your position, Ms. Holt, with respect to that?

12 **MS. HOLT:** With regard to the conflict, Your Honor? I
13 believe we can finish out the hearing --

14 **THE COURT:** Okay.

15 **MS. HOLT:** -- and --

16 **THE COURT:** Okay.

17 **MS. HOLT:** -- and then --

18 **THE COURT:** All right. And then address it?

19 Okay. That's fine.

20 **MS. HOLT:** Yes, Judge.

21 **THE COURT:** Sorry. I just want to make -- I'm trying
22 to just logistically keep track of things still. Sorry.

23 Go ahead, Ms. Holt. You -- when you go last, you have had
24 the unfortunate, and probably too much, benefit of what my
25 thought process here is on the strength of the evidence. We

1 haven't talked about your client's role at all, and you haven't
2 had a chance to tell me what bond it is that you're proposing.

3 **MS. HOLT:** Yes, Judge. So I can start there.

4 Mr. Pretel Ortiz does not have the resources of the prior
5 two defendants that this Court has considered. With that, I
6 would be asking for a personal surety bond cosigned by his
7 wife, who could not be present today but I spoke with yesterday
8 on multiple occasions -- understands the responsibility of a
9 cosigner.

10 She, herself, is a permanent resident in the United States
11 and understands that cosigning on this bond could have
12 significant implications for herself, despite them not having
13 significant assets here. As you can see in the
14 Pretrial Service report, they do have some cash that they have
15 saved.

16 So I would be asking the Court for a combination, with the
17 personal surety bond, of a 5 percent/100,000-dollar bond.
18 Along with that, I would be asking for house arrest, GPS, and
19 any other conditions this Court deems -- would deem be
20 appropriate. Mr. Pretel Ortiz is certainly willing to abide by
21 any of those conditions, Your Honor.

22 As you stated, I have had the benefit of hearing the
23 Court's concern. I've also had the benefit of hearing the
24 Government's response. And what I have heard so far and only
25 is the Government is relying solely on the charges in this

1 case, and that's simply not the only factor this Court should
2 be considering. If that were enough, Your Honor, then this
3 would be a nonbondable offense.

4 Income --

5 **THE COURT:** Sorry, but in fairness, the Government
6 hasn't actually argued about Mr. Ortiz yet. So I just want to
7 make sure that I'm following your arguments. You know, you're
8 not rebutting nothing. They just haven't had a chance to go
9 yet. The --

10 **MS. HOLT:** If they would like to go first,
11 Your Honor -- and I can -- it is their burden.

12 **THE COURT:** Yep. I just -- it's usually my practice,
13 if they make a motion for pretrial detention, to allow my
14 defendant to go first and last and have a last word and
15 explain, you know, the bond package. But I can hear from the
16 Government first.

17 **MS. HOLT:** Your Honor, I can continue. I just wanted
18 to address what -- what I think we have heard the prior issues
19 are --

20 **THE COURT:** Okay.

21 **MS. HOLT:** -- in -- in the spirit of efficiency.

22 But I think, you know, as noted in the prior case, this is
23 a presumption case. However, as -- as the prior attorney
24 stated, the Government -- the -- or the burden remains with the
25 Government despite that, Your Honor.

1 And as the Court has discussed, we don't have to guarantee
2 Mr. Pretel's -- Pretel Ortiz's appearance or the safety of the
3 community. We just have to reasonably assure that. And in
4 order to rebut the presumption, we, again, do not have to -- we
5 don't have a burden to assure the Court of that. We simply
6 have to present some evidence.

7 It's a burden of production, and the evidence presented to
8 this Court and in the Pretrial Services report has done that.
9 I think that we have heard, in much discussion previously,
10 about this approximately 18 months in which Mr. Pretel Ortiz
11 knew of this investigation, had every opportunity to flee, and
12 did not do so.

13 And that is very significant, and I know the Court was
14 saying that you have heard from both sides. But I don't think
15 there is any other way to interpret that, other than someone is
16 aware that they are being investigated for a very serious
17 allegation, has not just a week, not a month, but 18 months to
18 make some move about -- to -- to escape that investigation.

19 And Mr. Pretel Ortiz chose not to do that. He hired
20 lawyers. As Your Honor heard, these lawyers were in contact
21 with the Government throughout this time, indicating he is
22 available. He is still here. The Government has previously
23 argued -- and, again, I can wait for them to argue it in this
24 case -- that now it's different. Now that he's been indicted
25 and charged, it's somehow different.

1 I don't think that applies here, and I don't think the
2 Government can inter- -- can -- can point to any evidence
3 showing that there's a difference of thought or intent or
4 mentality here. If someone --

5 **THE COURT:** I agree with you on that. Sorry, but -- I
6 did interrupt you, but I agree with you that we don't have -- I
7 don't have evidence to show that. They're just arguing it;
8 right?

9 So in terms of whether or not you have an uphill battle
10 there, that's an argument -- right? -- that, from the
11 prosecutors' perspective, there's a different risk factor.
12 It's not so much that.

13 The -- and I think that you heard -- I don't mean to cut
14 you off, Ms. Holt, but I just want to tell you where you don't
15 have to fight; right?

16 **MS. HOLT:** That's fine, Judge.

17 **THE COURT:** But the -- I think it's very meaningful.
18 I think that I said already, like, is that enough to rebut the
19 presumption that, 18 months later, there was not, in fact, any
20 change in wealth or movement of assets or any other violation
21 of the law, period?

22 I agree with you. I guess where -- where I continue to --
23 to struggle is, even assuming that rebuts it, that that's
24 enough, are there conditions that reasonably assure with
25 respect to this defendant? And so I know that Ms. Castro is

1 going to argue and -- and contextualize evidence for me.

2 But as I see the role of your client in this, that gives
3 me pause and wants -- and that I want you to address is at
4 least the allegations that he played such a managerial role,
5 that he orchestrated, because for purposes of bond -- this is
6 not your trial.

7 For purposes of bond, what I'm considering is whether
8 there are conditions I can reasonably -- that will reasonably
9 assure that he will not apply those skills to hurt our
10 community or otherwise flee.

11 So that's, to me, the question that at least -- that I
12 would ask you to address.

13 **MS. HOLT:** Yes, Judge, and I certainly can.

14 I think, with respect to the charges themselves, you heard
15 from the agent that they have done, as one would imagine,
16 extensive investigation in the case. They have -- I believe,
17 on redirect, the Government talked about how many telephones
18 they've gone through. They have iCloud accounts, through all
19 of this, that they've investigated.

20 There is no evidence that they could point to today to
21 indicate that Mr. Pretel Ortiz knew that there was a plan to
22 kill President Moïse. The Government themselves has -- have
23 proffered this sort of dual strategy or evolving plan. And
24 even looking at their interpretation of the evidence, at most,
25 they can say that he -- he was participating in a plan to

1 arrest President Moïse.

2 There -- with this mountain of evidence that they've
3 procured thus far, there is nothing to indicate that he knew --
4 or even suggest or hint that he knew the plan was to kill
5 President Moïse. The evidence was that this -- the -- sort of
6 the definitive moment, when this was communicated, was on
7 July 6th, the day before the killing, at a meeting where
8 Mr. Pretel Ortiz was not present.

9 So I think that go -- I understand the Court's position
10 about the strength of the evidence and the seriousness of the
11 charges. But my initial response to that is, even
12 understanding the charges, the Government has not presented
13 evidence and, it seems like, cannot, even with all they have,
14 that Mr. Pretel Ortiz understood or believed or knew that that
15 was the plan going into July 7th.

16 Additionally, Your Honor, when we're looking at danger to
17 the community, as I was saying, the fact of the charge or the
18 fact that someone is charged with such a serious crime is
19 insufficient alone to say someone will be a danger to -- to the
20 community.

21 In order to -- to detain someone under -- or as a danger
22 to the community, the Court must find that he presents an
23 identified and articulable threat to an individual or the
24 community. It's not sufficient that it just be someone is
25 charged with this very serious crime; therefore, they must be

1 detained. Congress could have said that. They could have
2 said, under 956(a) offenses, people cannot receive a bond, and
3 they have not.

4 And it's hard to imagine a situation in which someone can
5 be more assured of appearance or lack of danger to the
6 community, with a charge even as serious as this, than what we
7 have today, where someone has cooperated with every request of
8 law enforcement since the incident at issue, has remained at
9 their home in the community without committing any other
10 crimes, without threatening any witnesses, without any hint or
11 suggestion that they were going to do something untoward,
12 illegal, dangerous.

13 And that's what we have here, Your Honor. It -- as I
14 said, it's hard to imagine a situation in which -- if this is
15 not the one where someone gets a bond in such a charge, then
16 what -- what case would that be?

17 How else could someone assure the Court, with these
18 serious charges, that they would not be a danger or show up to
19 court other than what Mr. Pretel Ortiz has done, which is,
20 again, to remain in the community, to give no indication that
21 he was going to flee, and to -- and to show that he can live
22 amongst the community for the past 18 months without doing
23 anything to harm anyone in the immediate community, the larger
24 community, the world community, Your Honor?

25 And we know, again, that we cannot look specifically at

1 the charge, and that is insufficient because Congress allowed
2 this charge and the charges that Mr. Pretel Ortiz has -- to
3 allow a defendant to be on bond. He has no prior criminal
4 history, Your Honor. And -- and as I said, there must be
5 something identified and articulable -- there must be an
6 identified and articulable threat going forward.

7 And the Government -- again, we can let them argue, and
8 perhaps they can say something different for Mr. Pretel Ortiz's
9 case, and I will respond to that. But from what I've heard so
10 far, their argument rests solely on the charges and the facts
11 in this case, Your Honor.

12 With respect to rebutting the presumption with risk of
13 flight and danger to the community, we certainly have rebutted
14 that presumption. Mr. Pretel Ortiz has significant ties to
15 this community. His wife of four years lives here. He has --
16 he has significant employment history. He's been working for
17 the last five years as a shuttle driver with the company that
18 you can see in the Pretrial Service report.

19 As I said, his wife is willing to cosign on the bond for
20 him. He has no drug history, no mental health history. He
21 does believe that his passport was seized when his -- during
22 the search of his house in August of 2021. We can certainly
23 confirm that, and if --

24 **MR. BELL:** (Inaudible) what she says, but I think it's
25 going to be home detention.

1 **MS. KUDMAN:** -- that is -- we will -- if the Court
2 gives a bond, we can certainly sort out surrender of any travel
3 documents.

4 One moment, Your Honor.

5 Similarly, Your Honor, with -- I think what supports that
6 we have rebutted that presumption and the fact that
7 Mr. Pretel Ortiz will not be a risk of flight or danger to the
8 community, along with that -- that 18 months that we've talked
9 about -- we also have the knowledge that people were being
10 arrested for it.

11 So, again, you heard that -- from the agent that towards
12 the end of January, they had arrested people on this case. And
13 so they started to surveil Mr. Pretel Ortiz because they
14 knew -- they knew --

15 **MR. BELL:** Okay. Thanks.

16 **MS. KUDMAN:** -- that other people were being arrested.

17 So not only do we have someone who knows they're being
18 investigated, then -- and willingly goes in to the FBI and HSI
19 offices three -- two to three times in July, then his house is
20 searched in August, still staying, still staying, then in
21 January is learning that other people are getting arrested,
22 being surveilled, and still not any indication that he is
23 making any move to flee.

24 And importantly, again, Your Honor, the fact that he has
25 already been in the community for 18 months and has not been a

1 danger to any witnesses, anyone -- there's nothing to indicate
2 that will change now. I think those facts are very, very
3 significant, absolutely rebut this presumption, and not only
4 rebut the presumption but show this Court that he will appear
5 to -- to all of his court appearances and not be a danger to
6 anyone, Your Honor.

7 Thank you, Judge. For those reasons, we would ask for a
8 bond. And, again, if there are any additional conditions the
9 Court would like to add, Mr. Pretel Ortiz is 100 percent
10 willing to abide by any condition this Court thinks is
11 appropriate.

12 **THE COURT:** Thank you, Ms. Holt.

13 **MS. CASTRO:** If I may, Your Honor.

14 **THE COURT:** Please.

15 **MS. CASTRO:** Thank you, Your Honor.

16 I'll just start first with defense counsel's reference to
17 the indication that it's the Government's position that no one
18 would ever be bondable just by virtue of this charge being at
19 issue. I want to be clear that it's not just the charge. It
20 is also Mr. Ortiz's role and conduct, as laid out in the
21 evidence.

22 The evidence against him is, as Your Honor noted, that
23 Mr. Ortiz acted in a managerial role. Mr. Solages, who was on
24 the ground in Haiti, reported directly to Mr. Ortiz. He
25 responded to him in text messages with "Yes, sir" and

1 "Understood." The messages that he was receiving from
2 Mr. Ortiz gave him directives on what to do in Haiti, and
3 Mr. Solages complied.

4 So I would submit that there should be no comfort that
5 this Court should find in Mr. Ortiz being in South Florida when
6 Mr. Solages gives the announcement that "We're going in to kill
7 the President."

8 I want to note that just before the President was
9 assassinated, the evidence shows that Mr. Ortiz was telling
10 Mr. Veintemilla, "You'll feel different about the success of
11 this operation by tomorrow." That goes to Mr. -- to defense
12 counsel's suggestion that there's no evidence that Mr. Ortiz
13 knew that there was a plan to kill the President.

14 I think what the witness said was that Mr. Ortiz was not
15 captured using the word "kill the President" because, of
16 course, he's no fool, for the same reason that Mr. Ortiz and
17 the other coconspirators referred to ammunition with the
18 terminology of "screws and nails" and "tools and instruments."
19 These are individuals who are not going to be so foolhardy as
20 to use the word "kill" or "assassinate" in their communications
21 with each other.

22 But there's absolutely an abundance of evidence that
23 suggests that Mr. Ortiz was absolutely aware that violence was
24 going to be used to unseat President Moïse and that he was
25 completely on board with that reality.

1 I'll just refer Your Honor to a couple of the messages,
2 the request for ammunition, including hand grenades, including
3 rocket-propelled grenades, sent to Mr. Ortiz; a request from
4 Mr. Solages saying, "This is the equipment that we need"; a
5 document titled "Fighter for the Liberation of Haiti."

6 It cannot be seriously contested that the recipient of
7 that document was somehow unaware that there was a risk of life
8 and even death and violence as a result of what he was putting
9 into place.

10 I want to also say that Mr. Ortiz also played a managerial
11 role as to Mr. Rivera. Mr. Rivera is one of the soldiers that
12 was sent to Haiti, funded by Mr. Veintemilla, to be one of the
13 leaders of the Colombian national -- nationals ultimately
14 retained to carry out this task.

15 Just as Mr. Solages was reporting to Mr. Ortiz, Mr. Rivera
16 was reporting to Mr. Ortiz. So when Mr. Rivera sends Mr. Ortiz
17 a message saying that he needs a battering ram, it's because
18 he's reporting to his superior the equipment that he needs to
19 carry out the task at hand.

20 I'll refer Your Honor to an April 20- -- April 23rd, 2021,
21 message where Mr. Ortiz is directing Mr. Solages, "See, with
22 your own eyes, the security at the palace." I'll also direct
23 Your Honor, as to Mr. Ortiz saying to Mr. Solages, a reference
24 that "You could face 25 years in prison for conspiracy" and
25 telling Mr. Solages to delete any compromising messages.

1 Again, this goes to consciousness of guilt. Again, this
2 goes to an intention to obfuscate the evidence of their crimes
3 or to hide the evidence of their crimes.

4 I know we've already talked about the whiteboard quite a
5 bit, Your Honor, but that was circulated by Mr. Ortiz to his
6 coconspirators. And I submit that no one looking at that would
7 have many questions about the fact that it uses terminology
8 like snipers, neutralizers, warriors, and shows arrows, for the
9 warriors and neutralizers, pointing in the direction of the
10 Presidential Palace.

11 I think there's strong evidence that this was, in fact, an
12 assault plan that Mr. Ortiz is circulating to Mr. Rivera, one
13 of the individuals on the ground that is responding to him and
14 who is the leader of the retained soldiers down -- one of the
15 leaders of the retained soldiers down in Haiti.

16 I'm not going to belabor the point that I've already made
17 various times today, Your Honor, as to how the circumstances
18 are different today. I understand that Mr. Ortiz was visited
19 shortly after the assassination, but, as I believe was
20 proffered, he was not honest about his role in the
21 assassination.

22 He maintained that he knew nothing about the arrest
23 warrant. He denied any knowledge of an immunity agreement,
24 which -- to be clear, the evidence shows Mr. Ortiz was
25 circulating to the coconspirators seeking to conceal or get

1 coverage for their actions in Haiti.

2 So there's every reason to believe that Mr. Ortiz walked
3 away from his meeting with the FBI thinking he potentially got
4 away with it. And, of course, he is now facing a plethora of
5 evidence making clear that that is, in fact, not the case.

6 So I want to be clear that it's not just the charge or the
7 statute that is charged, but it is the conduct of Mr. Ortiz
8 throughout the course of these events that make it abundantly
9 clear that he represents a danger to the community and a risk
10 of flight.

11 And I think I'll rest on that point unless Your Honor has
12 further questions.

13 **MS. HOLT:** May I respond, Your Honor?

14 **THE COURT:** You can.

15 I'll tell you, Ms. Holt, that I forgot that it was this
16 defendant who told the other conspirator to "Delete evidence of
17 your involvement." I don't -- I don't know why. I just share
18 that with you. I just -- it was a point that I had forgotten
19 from the proffer.

20 Go ahead.

21 **MS. HOLT:** Your Honor, first, just going one by -- or
22 in order of -- of what the Government presented, they -- they
23 mentioned directives from Mr. Pretel Ortiz to Solages. The
24 agent testified generally about some directives. There was
25 nothing specific.

1 Additionally, Your Honor, I think what's important is
2 there is another defendant that we have not heard a lot about
3 today, Mr. Intriago. And it's clear, from the complaint, that
4 he was the one who signed these initial agreements with CTU and
5 Worldwide and, I believe, Mr. Sanon. And that was not
6 Mr. Pretel Ortiz who signed those original agreements.

7 So I think it's important we don't forget about that when
8 we're talking about who we think was the manager and who we
9 think was -- was assuming that role here.

10 There is no evidence about what directives
11 Mr. Pretel Ortiz gave Solages, and that cannot then be assumed
12 or interpreted or speculated to mean that he gave some
13 directive about changing the plan to killing President Moïse.

14 It very well could be Mr. Intriago or any of the other
15 coconspirators in this case. Even assuming the Government --
16 or taking as true the Government's evidence, that's pure
17 speculation that that is something that Mr. Pretel Ortiz did.

18 I also want to emphasize that when I asked the agent about
19 did they have any evidence that Mr. Pretel Ortiz knew that this
20 plan was to kill the President -- and he said, "No." But it
21 wasn't just about whether he ever used this word "kill" in the
22 many text messages and emails and all of the other evidence
23 they had.

24 I also asked him if there was any code or any indication
25 at all, based on their testimony, that there had been a lot of

1 communication using code. And there's nothing, Your Honor.
2 It's -- there's not "code." There's not "hit." There's not
3 "suggestion."

4 And I think that's very important, and we can't overlook
5 even -- I think the Government's wrong to characterize it as
6 they just weren't not smart enough to use the word "kill."
7 There was nothing. There's nothing, in this mountain of
8 evidence, to indicate Mr. Pretel Ortiz knew that that was the
9 plan, gave a directive that that was the plan.

10 Again, going back to the whiteboard -- I know we -- we
11 have talked a lot about this, but I echo the attorney before
12 me, her argument, that there's no way to know what that means.
13 There's no way to tell whether -- what they're drawing is a
14 plan or what they're drawing is based on the current situation
15 or setup of the palace, Your Honor.

16 The Government has highlighted, or -- or alleged, that
17 Mr. Pretel Ortiz was not honest in his communications with law
18 enforcement, despite going in multiple times voluntarily after
19 July 7th of 2021.

20 I know Your Honor knows this, but bond is not
21 contingent -- contingent on someone giving a confession. As we
22 sit here today, Mr. Pretel Ortiz is presumed innocent and is
23 not required, in order for him to get a bond, that he make a
24 full confession, as the Government determines, in order to get
25 a bond, Your Honor.

1 Their argument is that he could very well have thought,
2 then, walking away from that meeting, that he got away with his
3 involvement here. And the evidence contradicts that. In fact,
4 it showed that he continued to go in.

5 So he had those two to three meetings in July, where he
6 voluntarily went to the offices. But then his house is
7 searched in August, which is another significant indication
8 that he, quote, "has not gotten away with anything" but that he
9 is yet still under very significant investigation by law
10 enforcement.

11 And, in fact, then he hires lawyers. And, again, then
12 time passes, and we get to January, where they are arresting
13 other people. And, again, he does not flee, even knowing that
14 his colleagues are getting arrested.

15 I also would like to point out, Your Honor, one thing the
16 agent did say is that -- and -- that is made clear in the
17 complaint. The resources were not coming from CTU. They were
18 coming from somewhere else, and I think that's significant.

19 One, I think it shows that Mr. Pretel Ortiz does not have
20 the resources to put up a bond proffered by -- by the other
21 folks before me, but it shows he also doesn't have the
22 resources to flee. He is working as a shuttle driver for a
23 hotel, makes okay money, but is not in a position where he
24 would be able to procure -- really procure the items necessary
25 to flee the country.

1 With that, Your Honor, with his conduct over the last 18
2 months, a bond cosigned by his wife, with an ankle -- a GPS
3 ankle monitor, a cash bond with the amount of money that he has
4 saved up now, and 24/7 home detention could assure this Court
5 that he will not be a danger to the community and that he would
6 appear for all of his court hearings.

7 The Government, in their argument, still has not
8 articulated how he is -- they have not identified, nor
9 articulated, a specific threat to the community going forward,
10 and that's what the law requires them to do. Without that, if
11 we're looking at the charge, if we're looking at his alleged
12 involvement in this offense, that is not sufficient,
13 Your Honor.

14 They must show that there is some danger to an individual
15 or the community that they can articulate and identify, and
16 they cannot do so. They also cannot proffer any evidence
17 suggesting to this Court that he will not show up to court.
18 The evidence has shown the opposite.

19 And for those reasons, Your Honor, a bond is appropriate
20 in this case.

21 **THE COURT:** Ms. Holt -- okay. I guess a question that
22 I would have, though -- when you say the Government has not
23 articulated a specific defendant -- or danger that this
24 defendant presents going forward and the -- I heard you both
25 say that they're relying on the charges -- charges and the

1 facts.

2 I agree with you that I think that the motion for
3 detention travels almost exclusively on the facts of the
4 crime -- Ms. Castro, correct me if I'm wrong, but, no, I think
5 that that's correct -- but the -- I would -- actually, I'm not
6 going to put you on the spot.

7 I will tell you that I would tend to disagree that that
8 doesn't also speak to the other factors under (g), including
9 characteristics of the defendant, in terms of what conduct here
10 has been shown.

11 I'll also, just for whatever it's worth -- because,
12 ultimately, I do not think that there are conditions that I can
13 impose here that reasonably assure the safety of the community,
14 and a written order will follow that articulates it better.
15 But I think that there is an insistence that the evidence of
16 written correspondence is the only evidence on which I can
17 rely.

18 But both the proffer and the agent's testimony refer to
19 statements of witnesses, which I can't look at an email in --
20 and some of them, I recall, being articulated in the
21 complaints -- the two complaints in this case, with respect to
22 your client, obviously, the main complaint. But it still
23 constitutes evidence.

24 So the email correspondence themselves, I think, is where
25 your argument largely travels in the absence of -- of proof

1 that Mr. Ortiz knew of the plan to kill the -- the President.
2 The -- the nature of the conspiracy, though, is also to -- to
3 kidnap, to displace, resulting in his death.

4 So I have trouble -- and I say this all out loud because
5 if you think that I misunderstand your argument, I would like
6 to hear it differently. But I -- but, ultimately, the concern
7 that I have in -- again, in a presumption case, where -- is the
8 absence of evidence. And even that, I have trouble deciding
9 exactly how much weight to attribute to.

10 There was testimony that the -- Mr. Ortiz was under
11 surveillance by the agents, but I -- but I don't know how much
12 surveillance. I don't -- meaning I don't know how much
13 evidence there really is of noncriminality during that time.

14 I only point that out because I just am really having
15 trouble weighing how to treat that factor. For me, it comes --
16 it is more meaningful for the absence of flight during that
17 time as opposed to danger to the community.

18 Again, for whatever it's worth, I'm sharing this with you
19 so that you can tell me that -- if you think I'm wrong, I'd
20 like to hear it, but it seems meaningful for purposes of risk
21 of flight but not as much for dangerousness.

22 So, again, to reiterate, the nature of this conspiracy and
23 how it was performed and the role that your client is alleged
24 to have fulfilled in that conspiracy and the evidence that I've
25 heard today, with respect to the instructions and the

1 intention, make it -- ultimately, it's my finding that I can't
2 think of conditions that would reasonably assure that the --
3 with that level of sophistication and coordination, safety of
4 the community.

5 But I think that addresses risk of flight, which your bond
6 potentially would otherwise address. I'm not sure your client
7 has quite the same -- it's not a comparison, but not quite the
8 same ties to the community as some of the -- as the preceding
9 defendant, but there's international ties.

10 When you tell me he doesn't have the means to flee, I
11 don't know that I'm limited -- this isn't traveling under
12 (f) (2) (A). A serious risk of flight, you know, comes down to
13 whether there are conditions I can otherwise impose if the
14 presumption is rebutted.

15 So even assuming the presumption is rebutted with the
16 absence of evidence of criminal activity or obstruction in the
17 last 18 months, considering the facts and evidence relating to
18 the -- I'm trying to find another word -- instruction to
19 destroy evidence and the role that he played in the offense, I
20 don't find that there are conditions that I could here impose
21 that would reasonably assure the safety of the community.

22 **MS. HOLT:** Your Honor, in response to that, I think
23 you have to find that there was no criminality. I think that
24 the Government -- we -- our system is not set up such that, if
25 there's no evidence, we don't know what the answer is.

1 If there's no evidence, we know what the answer is, which
2 is there is -- there has been no criminality. We cannot assume
3 or speculate that there may have been, and we just don't know
4 about it.

5 **THE COURT:** Well --

6 **MS. HOLT:** There's no basis to do that. If there was
7 something, the Government has the burden of proving that.

8 **THE COURT:** But -- I may have misled you. I'm not
9 sitting here thinking, "But he could have," even though there
10 wasn't evidence. That wasn't my point.

11 I'm just maybe being too candid in telling you that I'm
12 not sure, for purposes of dangerousness, how much weight I
13 should afford the fact that there was no criminality or there's
14 no evidence of criminal conduct in the last 18 months, not that
15 I'm sitting here thinking, "But he could have" because there
16 wasn't -- you're right -- any evidence of that.

17 **MS. HOLT:** I think that's huge, though, Your Honor, if
18 we're talking about whether we need to lock someone up because
19 we think they're going to be a danger to the community,
20 "community" meaning neighbors commit new crimes or "community"
21 meaning witnesses in the case or people involved in the case.

22 And we have a period of 18 months where this person has
23 known he's under investigation, has been out in the community,
24 without any of that. That -- there's no reason that that
25 behavior is going to change now.

1 And if we're looking at -- I don't -- and perhaps I'm
2 misunderstanding how you're using this term, but when you say
3 "lack of evidence," I think that's a lot of evidence. That's
4 18 months' worth of evidence that he is not a danger to the
5 community, that he can be in -- in our community without any
6 issue.

7 And that's what we have to look at, and I think that
8 speaks volumes here such that -- not only that the presumption
9 has been rebutted but that it can reasonably assure -- and I
10 would argue more than reasonably assure -- this Court that he
11 could be out for the length of the -- of this case without any
12 harm coming to anyone.

13 **THE COURT:** I understand.

14 I can't remember now -- and I apologize -- if it was you
15 or Ms. Kudman who pointed out that, if I was waffling, I had to
16 err on the side of release. And I'll just tell you, Ms. Holt,
17 I'm not waffling, but Judge Martinez may see it differently.

18 I'll enter a written order with my findings and my
19 reasoning for you to decide whether -- you know, again, if you
20 think that I misunderstood the evidence or should present
21 something different, and you want to move to reopen or ask
22 Judge Martinez to review it.

23 But that's the -- that's the ruling.

24 **MS. HOLT:** Thank you, Judge.

25 **THE COURT:** Thank you, Ms. Holt. That was

1 well-argued.

2 Mr. Ortiz has not really had a chance to come down to the
3 podium.

4 I know, Mr. Bell, that it's only a quarter to 4:00, and
5 you'd like to go, but before --

6 **MR. BELL:** No. Listen, I'm --

7 **THE COURT:** -- so that I can excuse Mr. Ortiz --

8 **MR. BELL:** I'm committed to whatever it takes.

9 **THE COURT:** -- can I finish -- I --

10 (Laughter.)

11 **THE COURT:** Sorry, Mr. Bell.

12 Ms. Holt, if I can finish out for Mr. Ortiz --

13 **MS. HOLT:** Oh, yes.

14 **THE COURT:** -- and then we could excuse him at least.

15 He's also been here since 10:00, like everybody else, but --

16 **MS. HOLT:** Oh. I got it.

17 **THE COURT:** Okay. Good afternoon, Mr. Ortiz. I'm
18 sorry I haven't addressed you personally and sooner.

19 Is the device still working for you, sir?

20 **DEFENDANT PRETEL ORTIZ:** Perfectly, Your Honor.

21 **THE COURT:** Okay. Good.

22 Mr. Ortiz, let me just address you directly with respect
23 to the issue of your attorney. The Government has made a
24 motion here -- and we'll ask Judge Martinez to decide, but the
25 Government has raised the issue of a conflict.

1 Okay. The motion -- I don't know if you've seen it --
2 says that the Office of the Federal Public Defender was
3 previously appointed on -- to represent a codefendant, who's
4 now named in this indictment.

5 Okay. He wasn't part of your complaint, but he's now part
6 of the indictment that you're also charged in.

7 Do you understand me so far?

8 **DEFENDANT PRETEL ORTIZ:** Yes. Correct.

9 **THE COURT:** Okay. So it's my understanding that there
10 was a period of about seven days where that Federal Public
11 Defender, or Assistant Federal Public -- Public Defender, was
12 assigned to the case.

13 Okay. So as you know, this week, I appointed the office
14 to represent you in this matter. To be clear, it is your right
15 not only to have counsel appointed, if necessary, but to have
16 conflict-free counsel, meaning an attorney who represents your
17 best interests and isn't conflicted by somebody else's
18 interests.

19 Do you understand that?

20 **DEFENDANT PRETEL ORTIZ:** Yes, I understand.

21 **THE COURT:** Okay. And, again, this full conflict
22 issue is going to be decided by Judge Martinez.

23 All right. For purposes of today's hearing, and for your
24 representation now, understanding that someone from Ms. Holt's
25 office previously represented a codefendant in this case, is it

1 your decision to continue with Ms. Holt, or do you want to seek
2 different counsel?

3 **DEFENDANT PRETEL ORTIZ:** I would like to continue with
4 her.

5 **THE COURT:** Okay. All right. So the motion was just
6 filed tonight? Last night?

7 **THE CLERK:** It was yesterday, Your Honor.

8 **THE COURT:** Okay. So I don't know if you guys are
9 going to ask Judge Martinez for expedited briefing, but,
10 Ms. Holt, I'm not going to arraign your client now. I'm going
11 to let Judge Martinez -- so what I'll do is I'll just set a --
12 I'm going to just set it out for 14 days.

13 Okay. And then if you guys need more time to resolve
14 it -- or Judge Martinez can decide, if he wants, to refer it to
15 his paired Magistrate Judge.

16 Does that sound appropriate, Ms. Holt?

17 **MS. HOLT:** That's fine, Judge.

18 **MS. GOLDBARG:** Yes, Your Honor.

19 **THE COURT:** Okay. All right. So 14 days from today
20 is the 3rd of March, different Magistrate Judge. I think
21 there's someone else in the case who also hasn't been
22 arraigned. So I don't think it's a significant lag in the
23 defendants' arraignment times.

24 But, anyway, if you need to have it changed, you'll either
25 let mag court know, move for a continuance, or ask

1 Judge Martinez to address it at the same time.

2 **MS. HOLT:** That's fine, Your Honor.

3 **THE COURT:** Okay. Anything else, then, with respect
4 to Mr. Ortiz?

5 **MS. CASTRO:** Not for Mr. Ortiz, Your Honor, but I'm
6 now asking myself if Mr. Veintemilla was arraigned before he
7 left court today. And I, candidly, don't recall the answer.

8 **THE COURT:** Yes.

9 **MS. CASTRO:** Okay.

10 **THE COURT:** I always do it before the detention
11 hearing.

12 (Discussion regarding another case.)

13 **THE COURT:** Okay. All right. Mr. Bell, we broke --
14 your client is still here. So we broke and needed to take
15 up -- I still want to colloquy the -- Dr. Martin.

16 **MR. BELL:** Uh-huh.

17 **THE COURT:** And I asked your positions. Again,
18 different prosecutors seem --

19 **MR. BELL:** Judge, we have an agreement, if that helps.

20 **THE COURT:** Yes, Mr. Bell. Go ahead. I'll say less.

21 **MR. BELL:** No. No. I'm -- I didn't mean to
22 interrupt -- interrupt. I apologize.

23 **THE COURT:** Go right ahead, sir.

24 **MR. BELL:** We've agreed, rather than the 10 percent
25 bond, to do a \$1.5 million personal surety bond cosigned by

1 Dr. Martin, who's here, and, you know, all the conditions that
2 you mentioned before, including her as a third-party custodian.

3 **THE COURT:** Okay.

4 **MR. BELL:** I have "Surrender all passports and travel
5 documents; report to Pretrial Services as directed; participate
6 in mental health assessment and/or treatment, as set forth in
7 the special conditions of bond; avoid all contact with
8 codefendants and defendants in related cases except through
9 counsel; refrain from possessing a firearm or destructive
10 device, as set forth in the special conditions." That's
11 Letter K.

12 You also said, "As set forth in Letter L, none of the
13 signatories may sell, pledge, or further encumber any of their
14 real property."

15 Then you also said that he's to participate in the
16 location monitoring program with an active GPS monitor for
17 purposes of -- if I understood you correctly, to enforce home
18 detention.

19 **THE COURT:** That's correct.

20 **MR. BELL:** On the term -- there are -- in terms of
21 home detention --

22 **THE COURT:** Allowances? Is that where you're heading?

23 **MR. BELL:** Yeah.

24 There are allowances here for -- that would apply, based
25 on your other conditions.

1 **THE COURT:** Can I cut you off for a split second to
2 say that it's always my practice to defer to Pretrial Services
3 on allowances.

4 And so unless there's something that you-all have
5 particularly stipulated to permit or not permit -- otherwise, I
6 let the officer interview and decide what's right.

7 **MR. BELL:** So there are two -- two or three things, I
8 think, at least -- I'd like to create a record, if I may.

9 **THE COURT:** That's okay.

10 Will you use the microphone, Mr. Bell?

11 **MR. BELL:** Yeah. Sure.

12 **THE COURT:** Go ahead.

13 **MR. BELL:** One is for medical; the other, again, based
14 on your own conditions, mental health treatment.

15 And one that's not explicit or listed here, but that I did
16 speak to Ms. Goldberg of the United States about, is an
17 allowance that permits him to continue to go to see his
18 parents, who live less than a mile away, to participate in
19 their care and go to their doctors' appointments.

20 **THE COURT:** Okay.

21 **MR. BELL:** Is that fair? Have I -- I just want to
22 make sure I've characterized what we have -- what we spoke to
23 fairly.

24 **MS. GOLDBARG:** We were -- Your Honor, in our
25 discussion, I was aware that he does take care of his -- of his

1 parents.

2 And so the request was that there would be, you know, a
3 structured time, but that can be approved by Pretrial, the
4 issue --

5 **THE COURT:** Right.

6 **MS. GOLDBARG:** -- of taking his parents to the
7 doctors' appointment. As long as it's preapproved by
8 Pretrial Services --

9 **THE COURT:** Right.

10 **MS. GOLDBARG:** -- and there's no deviations from that,
11 then the Government doesn't have a problem with it.

12 **MR. BELL:** And that's fine. I would expect that he'd
13 be required to provide them some kind of schedule they approve
14 beforehand --

15 **THE COURT:** That's -- so --

16 **MR. BELL:** -- based on my experience with these
17 things.

18 **THE COURT:** So for what it's worth, what that usually
19 requires is your officer will ask you, a week in advance, to
20 provide a schedule of where it is that you are looking to be.
21 That's what it usually entails.

22 So I'll include it as an allowance, the preapproved
23 visitation of parents and medical visits of parents, but just
24 know that that's what it usually means.

25 **MR. BELL:** So, Judge, just -- so to be clear, I'll

1 check off medical. I'll check off substance abuse, court
2 appearances, attorney visits --

3 **THE COURT:** Substance abuse? What are you -- what are
4 you doing?

5 **MR. BELL:** No, not substance abuse. It's next to
6 "mental health." I apologize.

7 **THE COURT:** Okay.

8 **MR. BELL:** I misspoke.

9 Court appearances, attorney visits, and court-ordered
10 obligations. He does live in a different district, and I
11 think --

12 **THE COURT:** Right.

13 **MR. BELL:** -- conditions of release should allow
14 pre- -- you know, pre-notice to Pretrial Services, travel
15 between the Middle and Southern Districts of Florida, so that
16 he can come to court, Number 1; and, Number 2, see his
17 attorney.

18 **THE COURT:** Okay.

19 **MR. BELL:** And then finally, as you pointed out, the
20 preapproved schedule relating to the parents. I'll -- I'll
21 write that in.

22 **THE COURT:** Okay. Does --

23 **MR. BELL:** Yes.

24 And, Judge, to be clear, for the record, one of the
25 conditions of release is that none of the signatories can sell

1 or further encumber the bond, which means by both the defendant
2 and his wife signing the bond --

3 **THE COURT:** Right.

4 **MR. BELL:** -- this bond is effectively collateralized
5 or secured, if you will, by the three pieces of real estate,
6 which I mentioned to the Court: Number 1, where the defendant
7 and his wife live; Number 2, where his parents live; and then
8 the third address, which I gave as to Ms. Martin alone. She
9 owns --

10 **THE COURT:** Right.

11 **MR. BELL:** -- the home she used to live in before she
12 met him. That -- all three of those properties are the subject
13 of this condition of release -- and I think -- I'm doing this
14 for the record for the Government -- meaning that they may not
15 sell or encumber any one of those properties or any other, if
16 they exist.

17 **THE COURT:** Right.

18 Okay. All right. Does that effectively memorialize the
19 parties' full agreement with respect to the bond conditions?

20 **MS. GOLDBARG:** It does, Your Honor.

21 **THE COURT:** Then can I talk to Dr. Martin?

22 **MR. BELL:** Yes, of course.

23 **THE COURT:** Anything else? Anything else? Pretrial,
24 anything else?

25 **PRETRIAL SERVICES OFFICER:** No, Your Honor. I think

1 we've covered everything.

2 **THE COURT:** Okay. All right. Dr. Martin, it's my
3 understanding -- well -- and I've seen you literally all day.
4 So I know that you were present throughout this entire
5 proceeding, and I'll just ask you a couple of quick questions.

6 Okay. Tell me your name for the record.

7 **DR. MARTIN:** Tracey Martin.

8 **THE COURT:** And it's my understanding you're willing
9 to cosign on a \$1.5 million bond on behalf of
10 Federick Bergmann.

11 I'll have you, for the record, tell me your relationship
12 to him.

13 **DR. MARTIN:** I'm his wife.

14 **THE COURT:** And how long have you known him?

15 **DR. MARTIN:** At least 20 years.

16 **THE COURT:** Okay. And I understand that you have some
17 of your own real estate, as well as the real estate that you
18 own with your husband; is that right?

19 **DR. MARTIN:** That's right.

20 **THE COURT:** Okay. And do you feel like you fully
21 understand the commitment you are undertaking here? I'm going
22 to ask you to do two things.

23 Okay. I'm asking you -- or you're being asked to cosign
24 on this bond -- we're going to talk about that -- and I'm
25 asking you to act as a third-party custodian. I don't know yet

1 if anyone has had a chance to talk to you about that, but it
2 would require you essentially to rat out your husband if he
3 doesn't comply with the conditions of his bond.

4 Okay. So those conditions that -- among others, that I'm
5 having you act as his custodian on will mean participating in
6 mental health treatment -- okay? -- attending his doctors'
7 visits, taking his medicine that's prescribed.

8 Do you understand that part of the bond?

9 **DR. MARTIN:** Yes.

10 **THE COURT:** Reporting to Pretrial Services as
11 directed. He's going to have to answer to a probation officer.
12 He's going to have to stay within the home and -- except for
13 when he has allowances to leave.

14 So if he leaves the house without your permission -- or
15 without your probation officer's permission, you'll have to
16 report him.

17 Are you prepared to do that?

18 **DR. MARTIN:** Yes, I -- yes, I -- yes.

19 **THE COURT:** Okay. And then he'll also only be able to
20 travel back and forth between this district and where you live.
21 You can't go anywhere else.

22 Do you understand that?

23 **DR. MARTIN:** Yes, I understand that.

24 **THE COURT:** Okay. This is really onerous.

25 Are you sure you want to -- want to undertake this

1 commitment?

2 **DR. MARTIN:** Well, I guess, yes. Uh-huh. Yes.

3 **THE COURT:** Okay. And you're sure you understand it?

4 **DR. MARTIN:** I understand it.

5 **THE COURT:** Okay. And you're so convinced that your
6 husband will comply as ordered that you're willing to cosign on
7 this bond and to be his third-party custodian?

8 **DR. MARTIN:** Yes.

9 **THE COURT:** Okay. Thank you, Dr. Martin.

10 **DR. MARTIN:** Uh-huh.

11 **THE COURT:** Okay.

12 **MR. BELL:** Okay. I just need him to sign it, if I
13 may.

14 **THE COURT:** I appreciate that, and I have one last
15 thing to say to him.

16 Mr. Bergmann, I must inform you that separate offenses are
17 established for the knowing failure of a defendant to appear
18 before a court, as required by the conditions of release, and
19 for the commission of a crime while on pretrial release.

20 Any terms of imprisonment imposed pursuant to either
21 provision of the law is consecutive to the sentence of
22 imprisonment for any other offense.

23 Any violation of a condition of your release may result in
24 immediate issuance of a warrant for your arrest, prosecution
25 for contempt of court, revocation of release, and forfeiture of

1 any bond and collateral that's been posted.

2 Mr. Bergmann, do you understand the impact that it would
3 have on your wife if you fail to appear before a court or
4 otherwise violate any of the conditions of my bond, which will
5 include no contact with any victim, any witness, any
6 coconspirator, anyone at all that the Government --

7 Ms. Goldberg, I don't know that I told you, but within -- oh.
8 Today is Friday at 4:00.

9 So by Tuesday, you're to provide a list to defense counsel
10 and to Pretrial Services of the list of persons that he's
11 prohibited from having contact with.

12 Do you understand?

13 **MS. GOLDBARG:** Yes, Your Honor.

14 **THE COURT:** Okay. So the list that you get from
15 defense counsel -- you can have no contact with them except
16 through counsel.

17 Do you understand?

18 **DEFENDANT BERGMANN:** Yes, I do.

19 **THE COURT:** Do you think you appreciate the
20 consequence it will have on your wife and parents if you
21 violate this bond?

22 **DEFENDANT BERGMANN:** Yes.

23 **THE COURT:** Okay. I hope so.

24 I will only see you again if you violate. So let's let
25 this be our last time together.

1 Is that it?

2 (Laughter.)

3 **MS. CASTRO:** I think so, Your Honor.

4 **MS. GOLDBARG:** Let's hope so.

5 **THE COURT:** Okay. I was just thinking, "Is that it?"

6 **MR. BELL:** Yes. I'm just having him sign.

7 **THE COURT:** Okay. Okay. Then --

8 **MR. BELL:** Thank you, Judge, and thank you for your
9 time and patience.

10 **THE COURT:** No. I -- listen, I appreciate the
11 presentation that everyone's made here. It was incredibly
12 thoughtful and -- and fulsome.

13 That ends the morning calendar.

14 (Laughter.)

15 **THE COURT:** And for everybody who's been here since
16 2:00, I'm really sorry. I've got to give my court --

17 **MR. BELL:** When I get in trouble, call Ms. Kudman or
18 Ms. Holt.

19 **THE COURT:** Yeah.
20 Deputy, what's our situation with our 2:00 o'clock?

21 **THE MARSHAL:** I'm sorry?

22 **THE COURT:** Are -- do we have them?

23 **THE MARSHAL:** We're waiting on them.

24 **THE COURT:** Oh, God.

25 Okay. I'm so sorry.

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THE MARSHAL: No problem.

THE COURT: Alicia, what do you want to do?

Everyone's excused.

(Proceedings adjourned at 4:28 p.m.)

1
2
3 CERTIFICATE OF TRANSCRIBER

4 I certify that the foregoing is a true and correct
5 transcript, to the best of my ability, of the above pages of
6 the official electronic sound recording provided to me by the
7 U.S. District Court, Southern District of Florida, of the
8 proceedings taken on the date and time previously stated in the
9 above matter.

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties to the action in
12 which this hearing was taken, and further that I am not
13 financially nor otherwise interested in the outcome of the
14 action.

15
16 DATE: Monday, March 6, 2023

17
18
19
20 _____ /S/ James C. Pence-Aviles

21 James C. Pence-Aviles, RMR, CRR, CSR No. 13059
22 U.S. Court Reporter
23
24
25