

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-cr-20201-KMW

UNITED STATES OF AMERICA,

v.

DAVID KNEZEVICH,

Defendant.

MOTION TO REOPEN DETENTION HEARING

Defendant, DAVID KNEZEVICH, by and through undersigned counsel, respectfully files this Motion to Re-Open the Detention Hearing before Magistrate Judge Torres, pursuant to 18 U.S.C. § 3142(f). In support of this Motion, Defendant states:

ORIGINAL HEARING BEFORE MAGISTRATE

1. On May 10, 2024, Defendant appeared at a detention hearing before Magistrate Judge Torres. [D.E. 9]. At the hearing, Magistrate Judge Torres ordered detention on the basis that Defendant was a “risk of flight.” *Id.* A copy of the transcript from the hearing is attached as **Exhibit A**.

2. Notably, Magistrate Judge Torres rejected the government’s separate argument that detention was warranted because Defendant is a danger to the community. [Ex. A at 46:5-12] (“Well, I can’t detain based on danger because I think the evidence -- I can’t make a finding sufficient to detain him on danger . . . even in the light most favorable to the government . . .); [*see also id.* at 53:9-13].

3. Magistrate Judge Torres candidly stated (more than once) that the decision whether to order detention based on risk of flight was “*a close call*” and could go either way. [Ex. A at T.

48:4-5; 51:3-6]. Magistrate Judge Torres also acknowledged that because *all the evidence* in the case against Defendant is circumstantial, this appears to be a defensible case. [*Id.* at 46:21-24].

4. On June 3, 2024, Magistrate Judge Torres entered his written order of detention. [D.E. 17]. In the detention order, Magistrate Judge Torres determined that the factors enumerated in 18 U.S.C. § 3142(g) favored detention—in particular, the weight of the evidence and Defendant’s history and characteristics. *Id.*

BASIS TO REOPEN DETENTION HEARING

5. The detention statute provides that a “hearing may be reopened . . . at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue. . .” 18 U.S.C. 3142(f).

6. On June 17, 2024, the government began producing discovery to Defendant. This included approximately sixty-six FBI 302 reports written by Special Agent Montilla (the “302s”), who testified at the first detention hearing.

7. The 302s were not available for consideration in cross-examining Special Agent Montilla at the first detention hearing.

8. The 302s have a material bearing on detention, including on all the factors for consideration in 18 U.S.C. § 3142(g). First, they contain new information that contradicts the allegations in the complaint and indictment. Second, they contain additional information that makes clear the Court has no jurisdiction over this alleged kidnapping. Third, they contain information that makes clear, beyond any doubt, that the government is simply using this alleged

kidnapping charge as a means of detaining Defendant while it conducts a massive international murder investigation.¹

9. Moreover, the case law on jurisdiction cited by the government at the detention hearing—*U.S. v. Meyer*, 63 F.4th 1024 (5th Cir. 2023)—is totally inapposite. While the government represented *Meyer* was on all fours with this case, there are critical evidentiary differences, which was only further confirmed in the 302s. The government raised *Meyers* for the first time at the detention hearing. The defense was thus not able to respond to it in full but is now prepared to do so.

10. In addition, undersigned counsel has learned more about Defendant's assets, which bear on his risk of flight. For example, the government argued at the first hearing that Defendant is a risk of flight because he has significant means. In fact, the government did not provide the Court with bank accounts or assets to support its position that Defendant is a "man of means." This is because there are no substantial "means" to show. Indeed, most of Defendant's "means" are tied up in second mortgages, and now that a conservatorship was opened by his wife's brother, Defendant does not have significant means at all. The property listed in the pretrial services report is not accurately portrayed. All the properties are heavily mortgaged. Many other assets are tied up in the conservatorship. Simply stated, Defendant does not have access to significant amounts of money. Defendant is far from "a man of means," as very few of his assets are liquid, and none of his assets are easily accessible.

11. Defendant has never been charged with a crime. He was in Serbia when first notified by the Spanish police and others of the alleged disappearance of his wife. Knowing that

¹ For example, the defense notes that on every 302, including 302s written as recently as last week, it names the alleged crime as "Foreign Murder of a US National by a US National," referencing 18 U.S.C. 1119, rather than the kidnapping charge lodged against him.

there was an ongoing investigation into his wife's alleged disappearance, he voluntarily returned to South Florida from Serbia .

12. Finally, in the briefing on the defense's objection to the detention order, the government filed a response brief, [D.E. 20], that contained information contrary to the allegations in the complaint and indictment, particularly with respect to the timing of the alleged conduct and purported video recording time stamps. For example, in the government's complaint, it is alleged that the last time the victim is "seen alive" is at 2:20 p.m. on February 2, 2024, via camera footage at her apartment. [D.E. 2 at 2]. In its briefing, the government changes the time to 1:42 p.m., again via camera footage at her apartment. [D.E. 20 at 3]. There are similar disparities regarding Defendant's purported appearance on camera footage at the apartment. Obviously, these changes in the government's timeline were not known to the defense at the first detention hearing, as the response papers were not filed until after.

13. For all these reasons, there is sufficient and just cause for Magistrate Judge Torres to reopen the detention hearing given new information that was not known to the defense during the first detention hearing, which bears on the weight of the evidence and the nature and circumstances of the alleged offense, upon which this Court issued its Order of Detention.

14. Fairness requires reopening the hearing to complete the record, particularly given the longstanding principal that all accused are considered innocent until proven guilty, and pretrial release should only be denied in rare circumstances. *United States v. Sanchez-Martinez*, 2013 WL 3662871.

15. The law favors pretrial release of defendants, *see, e.g., United States v. Bradshaw*, 2000 WL 1371517, at *3 (D. Kan. July 20, 2000), and "[t]he court must resolve all doubts regarding the propriety of release in the defendant's favor." *United States v. Morales*, 2012 WL

603520, at *1 (D. Kan. Feb.24, 2012), citing *United States v. Chavez–Rivas*, 536 F.Supp.2d 962, 965 (E.D.Wis.2008).

16. Magistrate Judge Torres said more than once that whether to grant bond in this matter was a *very close call*. Defendant submits that “close calls” should be resolved in favor of releasing a defendant before trial, in accordance with *Morales*. See *Morales*, 2012 WL 603520, at *1 (“The court must resolve all doubts regarding the propriety of release in defendant’s favor.”).

17. Prior to filing this Motion, undersigned counsel met and conferred with AUSA Lacey Monk pursuant to the Local Rules. AUSA Monk indicated that she opposes this Motion.

WHEREFORE, Defendant respectfully requests that the detention hearing be reopened given new evidence and new information not known to Defendant during the first hearing.

Dated: June 18, 2024

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EXHIBIT “A”

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

2 -----x

3 UNITED STATES OF AMERICA,

24-MJ-02896 (LMR)

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United States Courthouse
Miami, Florida

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-against-

May 10, 2024

6

DAVID KNEZEVICH,

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Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR DETENTION HEARING
BEFORE THE HONORABLE EDWIN G. TORRES
CHIEF MAGISTRATE JUDGE

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APPEARANCES:

12

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BY: LACEE E. MONK, AUSA

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(Proceedings recorded by electronic sound recording.)

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PROCEEDINGS

1 THE COURTROOM DEPUTY: Calling case United States
2 versus David Knezevich, case number 24-2896, Judge Reid.

3 MS. MONK: Good afternoon, your Honor. Lacey Monk
4 on behalf of the United States.

5 MS. WEINTRAUB: Good afternoon, your Honor. Jayne
6 Weintraub on behalf of the defendant. I entered a temporary
7 appearance last night.

8 THE COURT: Thank you, good afternoon.

9 MS. WEINTRAUB: Good afternoon, Judge.

10 THE COURT: We are set for a detention hearing for
11 Mr. Knezevich.

12 MS. WEINTRAUB: Yes, Judge.

13 THE COURT: Is the government ready to proceed?

14 MS. MONK: Yes, we are, your Honor. The government
15 is prepared to proceed by proffer. I do have FBI Special
16 Agent Alexandra Montilla here available for cross-examination.

17 Before I get into the factual proffer, the
18 government is moving for detention based upon both a serious
19 risk of flight and danger to the community. The statutory
20 basis for that is 3142(f)(1)(B), an offense for which the
21 maximum sentence is life imprisonment or death. And
22 3142(f)(2)(A), a serious risk that such person will flee.

23 Kidnapping has a stat max of life and as of right
24 now we conservatively estimate the defendant's guidelines to
25 be 121 to 151 months, which is roughly 10 to 12 years. So

PROCEEDINGS

1 with that I'll move forward with the proffer, your Honor.

2 On or about December 26th, 2023, the defendant's
3 wife, a 40-year old female and United States citizen, who I'll
4 refer to as the victim going forward, flew out of Miami
5 International Airport to Madrid, Spain.

6 Thereafter, on or about February 2nd, 2024 the
7 victim's friends and family, who had previously communicated
8 with her while she was in Spain, lost contact with her.
9 Spanish authorities were alerted to the victim's disappearance
10 by one of her friends after the victim failed to show up for a
11 previously planned trip to Barcelona.

12 The last non-automatic activities on the victim's
13 Bank of America account were for a flower purchase on or about
14 February 2nd, 2024, the day she was last seen entering her
15 apartment. As well as a charge from a restaurant in Madrid on
16 or about February 10, 2024 for failing to show up to a dinner
17 reservation that she had previously made.

18 On or about February 4th, 2024 Spanish firefighters
19 entered the victim's apartment for a welfare check and
20 discovered that she was not in the apartment. Subsequently,
21 Spanish law enforcement searched the victim's apartment
22 pursuant to an order and discovered that her cell phone,
23 laptop computer and respective chargers were missing.

24 At the time of her disappearance, the victim was
25 married to the defendant, Mr. Knezevich, a Yugoslavian born

PROCEEDINGS

1 naturalized citizen of the United States. According to the
2 victim's friends and family, the victim and the defendant were
3 separated and planned to divorce. The separation was
4 contentious because the defendant did not want to split the
5 marital assets evenly with the victim. The victim was very
6 fearful of the defendant.

7 An investigation in to the victim's disappearance by
8 Spanish authorities revealed that on or about February 2nd,
9 2024, the security camera at the victim's apartment building
10 in Madrid captured her entering the building around 1:42 p.m.
11 This is the last time she has ever been seen.

12 The same day, at approximately 9:27 p.m., the
13 building surveillance camera captured a male, believed by law
14 enforcement to be the defendant, waiting outside the entrance
15 to the victim's apartment building. The male is wearing a
16 motorcycle helmet, a reflective vest, dark pants and gloves
17 and is holding a white plastic bag giving the impression that
18 he is a food delivery service provider. As two women exit the
19 building, the male uses the opportunity to enter the building.
20 He remains downstairs briefly outside of the video
21 surveillance cameras and then proceeds to go up the stairs. A
22 short time thereafter the male is captured descending the
23 stairs while holding a can of spray paint with a strip of duct
24 tape now affixed to the chest of his vest. The male sprayed
25 the lens of the surveillance camera with the spray paint to

PROCEEDINGS

1 disable it. The male then returns to the front door that he
2 entered the building through, pauses for a moment, seemingly
3 to fasten a piece of duct tape to the lock to prevent the lock
4 from engaging to allow subsequent entry to the building, and
5 then exits the front door of the apartment.

6 At approximately 9:52 p.m. the male reenters the
7 apartment building and appears to enter the elevator with an
8 object. Based on the movement of the object, its proximity to
9 the male and its shape, it appears to be a rolling suitcase.
10 The male then leaves the elevator with the suitcase at
11 approximately 9:55 p.m.

12 Based on the surveillance footage, Spanish
13 authorities were able to identify the brand of spray paint
14 used to disable the security camera. Law enforcement then
15 determined that a retailer in Madrid had reported a sale of
16 that particular brand of spray paint on or about February 2nd,
17 2024, the same day the victim is last seen. Surveillance
18 footage from the retailer clearly depicts the defendant
19 purchasing the spray paint along with two rolls of duct tape
20 in cash on or about February 2nd, 2024 around noon.

21 Additionally, a Columbian woman, who the defendant
22 met on a dating app in October of 2023, advised law
23 enforcement that on or about February 3rd, 2024, the day after
24 the victim is last seen, the defendant contacted her via
25 WhatsApp and asked her for help in translating a message into,

PROCEEDINGS

1 quote, perfect Colombian for a friend in Serbia is writing a
2 script about a Colombian character. Notably, the victim in
3 this case was born and raised in Colombia and is fluent in
4 Spanish. She later became a United States citizen.

5 The individual then translates two messages for the
6 defendant. The first, I met someone wonderful, he has a
7 summer house about two hours from Madrid. We are going there
8 now and I will spend a few days there. There is barely a
9 signal though, I'll call you when I come back. Kisses.

10 The second message: Yesterday after therapy I
11 needed a walk and he approached me on the street. Amazing
12 connection, like I never had before.

13 Those messages are the last messages that family and
14 friends received from the victim. The messages were sent from
15 the victim's phone on February 3rd of 2024, the day after she
16 is last seen. Law enforcement has no reason to believe that
17 the victim or this Colombian woman ever knew one another. The
18 only connection is the defendant.

19 Records from Customs and Border Protection revealed
20 that on or about January 27, 2024 the defendant traveled by
21 airplane from Miami International Airport to Istanbul, Turkey.
22 He subsequently traveled out of Serbia into Croatia by a
23 vehicle via a border crossing on January 30th of 2024, and
24 returned to Belgrade, Serbia from Croatia by vehicle also
25 through border crossing on February 5th, 2024.

PROCEEDINGS

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1 The defendant rented a Peugeot 308, which is a
2 vehicle in Serbia from approximately on or about January 29th,
3 2024 through approximately March 15th of 2024.

4 When the defendant returned the vehicle, the windows
5 had been tinted, there was an indication that the license
6 plates had been -- the license plate frames had been changed,
7 and two stickers had been removed from the vehicle. The
8 vehicle had traveled approximately 7,677 kilometers while in
9 the defendant's possession.

10 Spanish authorities also advised that around the
11 relevant time, which is approximately February 1st to
12 February 2nd, an individual filed a complaint that both of his
13 license plates were stolen off of his vehicle in Spain.
14 Spanish authorities ran a search in their plate reader
15 database for that stolen plate and learned that the plate was
16 present on the street where the victim's apartment was
17 located.

18 The stolen plate passed through two tollbooths in
19 the middle of the night on February 2nd into February 3rd.
20 Video from the tollbooths revealed that the plates were
21 attached to Peugeot 308 with tinted windows, which is the type
22 of vehicle that the defendant rented in Serbia. Because of
23 the tint, the driver is not visible. One of the tollbooths
24 was in a town which is just outside of Madrid.

25 More license plate readers positioned the stolen

PROCEEDINGS

1 plates within a four-minute walk of a motorcycle accessory
2 shop in Madrid on February 2nd, 2024.

3 Around the same time the vehicle was located there,
4 an individual bought a motorcycle helmet and a reflective vest
5 at the store in cash at approximately 5:10 p.m. The helmet
6 purchased is the same brand of helmet, make and model, if you
7 will, that the defendant wore while spray painting the
8 surveillance cameras in the victim's apartment.

9 Additionally, the defendant's Facebook account used
10 an IP address in an area of Spain just north of Madrid on
11 February 1st of 2024, the day before the victim's
12 disappearance.

13 The defendant was born in Yugoslavia, as noted in
14 the Pretrial Services report. He's traveled to over 30
15 countries, most recently Serbia where he remained until he
16 flew into Miami International Airport on this Saturday May 4th
17 of 2024 and at that point he was arrested. And that concludes
18 the government's proffer.

19 THE COURT: Counsel.

20 MS. WEINTRAUB: Yes, Judge, I would like to cross
21 examine the agent if I might.

22 THE COURT: Go ahead and call the agent.

23 (The witness takes the stand.)

24 THE COURTROOM DEPUTY: Please raise your right hand.

25 (Continued on next page.)

MONTILLA - CROSS - MS. WEINTRAUB

1 **ALEXANDRA MONTILLA**, called as a witness, having been first
2 duly sworn/affirmed, was examined and testified as follows:

3 THE WITNESS: I do.

4 THE COURTROOM DEPUTY: Please have a seat, ma'am,
5 and state and spell your name for the record.

6 THE WITNESS: Alexandra Montilla.

7 A-L-E-X-A-N-D-R-A. Last name, M-O-N-T-I-L-L-A.

8 THE COURTROOM DEPUTY: And your agency, ma'am?

9 THE WITNESS: Federal Bureau of Investigation.

10 THE COURTROOM DEPUTY: Thank you.

11 MS. WEINTRAUB: May I proceed?

12 CROSS-EXAMINATION

13 BY MS. WEINTRAUB:

14 Q Agent Montilla, you are not the agent who authored the
15 complaint in this case, are you?

16 A No.

17 Q Are you -- what was your involvement in this case if you
18 did not author the complaint?

19 A I am the case agent along with Agent Ules{ph}.

20 Q Can you please tell the Court, since we didn't share,
21 what evidence specifically do you have that the defendant
22 seized, confined, abducted or carried away Ana Maria
23 Knezevich? Do you have any?

24 A So all the information that the prosecutor just read, all
25 the information from the Spanish National Police where he's

MONTILLA - CROSS - MS. WEINTRAUB

1 spotted in the hardware store buying the spray paint, the duct
2 tape, then a man similar to him is seen spraying the
3 surveillance camera where Ana Maria was staying at. The car
4 that he rented --

5 Q Agent, I don't mean to interrupt you, but I would like to
6 go one at a time because I don't want a narrative answer.

7 So, first, if you could just give me a yes or no and
8 answer my question --

9 A Can you repeat the question.

10 Q -- and if your answer is everything the prosecutor just
11 said that's fine, but I just want to get a clean record and I
12 don't want to be interrupting you, so I'm going to remind you
13 of the question.

14 A Can you repeat the question?

15 Q Yes, please. Thank you.

16 So the question is, what specific evidence do you
17 have that David Knezevich seized, confined, abducted or
18 carried away Ana Maria? Do you have any specific evidence of
19 those things that I just mentioned?

20 A Again, I can go through all the evidence we have that
21 leads to suspect that he did kidnap her.

22 Q Okay. Fair to say you can -- as of today you have not
23 located her, correct?

24 A Ana Maria is still missing.

25 Q There was never any ransom notice --

MONTILLA - CROSS - MS. WEINTRAUB

1 THE COURT: Have any efforts been made to locate
2 her? Are there still ongoing efforts to locate her?

3 THE WITNESS: Yes, there are efforts. We're still
4 looking for her.

5 Q Has there been any ransom demand by anybody?

6 A No.

7 Q Was there ever any single person questioned in exchange
8 for her return?

9 A No.

10 Q So your evidence basically is that on February 2nd, the
11 last time she was in contact with a family -- by the way
12 before that, do you know how often she was in contact with her
13 family?

14 A Often.

15 Q Daily, weekly, monthly, do you know?

16 A Often, might be daily, every two days. I mean often.
17 And with her friends very often.

18 THE COURT: What was she doing in Madrid, do you
19 know?

20 THE WITNESS: They were in the process of getting a
21 divorce and she feel her life was threatened by David so she
22 went to Spain to live far away from David.

23 BY MS. WEINTRAUB:

24 Q Okay. So let's --

25 THE COURT: Does she have family in Spain or

MONTILLA - CROSS - MS. WEINTRAUB

1 something?

2 THE WITNESS: No. She had a lot of friends.

3 Q Did she have a boyfriend there?

4 A No, no that I know of. I know she had friends,
5 girlfriends.

6 Q Do you know if she was dating people and had boyfriends,
7 or you don't know that?

8 A Yes, she dated.

9 Q Did the Spanish authorities interview any other men that
10 she had been with?

11 A Yes. All of them.

12 Q How many were there?

13 A I don't know exactly, but I know they interviewed all of
14 them since she had gotten to Spain.

15 Q Now you said that there was a divorce that was going on
16 that was very contentious?

17 A They had agreed to get a divorce, yes.

18 Q Okay. Do you have any evidence other than a -- I'm
19 thinking for the right word -- an angry family member that
20 might have a reason to not be happy with the situation, other
21 than a family member telling you that it was a contentious
22 divorce proceeding that was about to happen, do you have any
23 other evidence?

24 A Yes. I have numerous texts and audios from Ana to her
25 friends stating that it was an ugly divorce.

MONTILLA - CROSS - MS. WEINTRAUB

1 Q Do you also have texts from Ana with David including --
2 and lawyers on February -- on January 30th, February 1st,
3 February 2nd, in a very amicable manner?

4 A No, that's -- that's information I'm not allowed to --
5 that's privileged information.

6 Q You do not -- you do not have any --

7 A With the attorneys? That's privileged information I
8 wouldn't have that.

9 Q Were you --

10 THE COURT: Let me --

11 Q You said you didn't --

12 THE COURT: Let me rephrase the question. Do you
13 have any text messages shortly before the victim disappeared
14 with this defendant?

15 THE WITNESS: No.

16 Q Did you see any text messages on her WhatsApp
17 application?

18 A I do have messages from her.

19 Q And are you telling this court under oath that there are
20 no messages that indicate that amicable discussion between
21 David and Ana as recently as January 30th, February 1st, and
22 2nd --

23 A I do not have that --

24 Q Let me finish the question.

25 A -- in my possession.

MONTILLA - CROSS - MS. WEINTRAUB

1 Q I'm sorry.

2 Are you telling this court that you did not see any
3 communications between Ana and David from January 30th,
4 February 1st and 2nd regarding a piece of property that was
5 going to be sold?

6 A I don't have that in my possession. It might exist, I
7 just don't have that in my possession, or I haven't come
8 across it.

9 Q That isn't the question.

10 THE COURT: What else do you know about -- when you
11 say it was contentious, what other facts do you know that
12 leads you to conclude that?

13 THE WITNESS: So I have audios from Ana to her
14 friends describing that she's feels threatened, she feel
15 endangered, that David didn't want to give her half of the
16 alimony of the divorce. That he didn't want her to go to a
17 different attorney, and so forth.

18 THE COURT: And what was the status of the actual
19 litigation, the divorce litigation?

20 THE WITNESS: So she had given him an ultimatum of
21 February 1st to file and he had not met that deadline, so she
22 was upset basically.

23 THE COURT: How long had they been separated?

24 THE WITNESS: She left for Spain December 26th.

25

MONTILLA - CROSS - MS. WEINTRAUB

1 BY MS. WEINTRAUB:

2 Q Are you telling this court that there were divorce
3 proceedings?

4 A They were in the process.

5 Q What does that mean?

6 A That they were in talks of going forward with the
7 divorce.

8 THE COURT: But had a divorce petition --

9 THE WITNESS: I don't -- I don't the papers had not
10 been filed.

11 THE COURT: Okay.

12 BY MS. WEINTRAUB:

13 Q So there was not a divorce proceeding, right?

14 A No.

15 Q And the only evidence that anything was contentious is
16 from a family member that told you that she heard it from Ana?

17 MS. MONK: Objection. Misstatement of the evidence
18 and the testimony.

19 THE COURT: She can answer it. Overruled.

20 THE WITNESS: Can you repeat the question?

21 MS. WEINTRAUB: I don't think I ever got a very
22 specific answer to a specific question. I'm going to try and
23 ask it again and I don't mean to be repetitive I'm trying to
24 get you to answer the question.

25 Q You've reviewed text messages between Ana and other

MONTILLA - CROSS - MS. WEINTRAUB

1 people, yes?

2 A Yes.

3 Q You reviewed her WhatsApp application text messages
4 between Ana and other people, yes?

5 A Yes.

6 Q You reviewed text messages between Ana and David on
7 WhatsApp during the period the end of January beginning of
8 February, yes?

9 A No, I haven't reviewed them. I -- those -- the messages
10 I got from Ana were provided to me.

11 Q By whom?

12 A By friends and family members.

13 Q So then -- okay, so let's -- I need to understand and I
14 want the judge to understand. Did you review -- you only
15 reviewed a limited amount or a small amount that the family
16 gave you, is that what you're saying?

17 A And friends.

18 Q Okay, you didn't have access to it?

19 THE COURT: In other words, have you already pulled
20 all her text messages for that period of time or her WhatsApp
21 messages through this service provider?

22 MS. MONK: Judge, I'm sorry I think there's a
23 misunderstanding of how WhatsApp works and that is muddying
24 the waters in the questioning.

25 THE COURT: All right, she can answer it. Go ahead.

MONTILLA - CROSS - MS. WEINTRAUB

1 THE WITNESS: No. And the what's up[sic] we still
2 are in the works for that, we haven't received their return,
3 but what I reviewed was, yes, messages that were provided to
4 me by families and friends.

5 THE COURT: Okay.

6 BY MS. WEINTRAUB:

7 Q So let me ask you this: If there was a message between
8 say Ana and somebody else about the sale of the property and
9 she was saying things like, whatever David thinks is fine,
10 would your testimony be different today?

11 A No.

12 Q It wouldn't?

13 A No.

14 Q Wouldn't that show that it wasn't so contentious and she
15 wasn't afraid and she's saying it depends on whatever David
16 wanted?

17 A I have numerous messages where she's saying that she's
18 suicidal, that she's seeing therapy, that she's not doing
19 well.

20 Q Do you -- okay, let's go back to the question and see if
21 we can get an answer.

22 First of all, do you know -- you talked about her
23 mental health. Did you know that she was suicidal before?

24 A Before what?

25 Q Well, whenever you're reviewing messages, did you know

MONTILLA - CROSS - MS. WEINTRAUB

1 she suffered mental illness for years?

2 A I knew -- no. No.

3 Q Do you know that she's been treated by several mental
4 health people, professionals, and on medication for years?

5 A I was aware of that. I just don't know specifically what
6 she was diagnosed with.

7 Q Okay. So when you say she was suicidal, that really was
8 part of her being for several years, it was not a new ideation
9 that came on February 2nd, was it?

10 A She referred to being suicidal because of the issues she
11 was having with David.

12 Q Let's talk about evidence. The complaint says that on
13 February 2nd, the last that she was in contact with her
14 family, a male wearing a helmet, who has the same physical
15 characteristics as David, was entering her apartment building.

16 Do you remember that?

17 A Correct.

18 Q When you say -- when the agent wrote "physical
19 characteristics," what does that mean, same height?

20 A Eyebrows, build, but most significantly the eyebrows, the
21 eyes and eyebrows.

22 Q Okay. There is no facial recognition, right?

23 A No.

24 Q You couldn't tell whether he had facial hair, a mustache
25 or a beard from this, could you?

MONTILLA - CROSS - MS. WEINTRAUB

1 A No.

2 Q Couldn't tell if he had hair or was bald, could you?

3 A No.

4 Q So he basically --

5 THE COURT: In other words, you can see only the
6 front, the front part of --

7 THE WITNESS: Yes, he had his mouth covered.

8 THE COURT: Okay.

9 THE WITNESS: The mouth covered and the helmet so
10 you can see his eyes and eyebrows.

11 Q Okay. So you really couldn't see very much aside from
12 his build and his eyebrows, correct?

13 A Correct.

14 Q And all of this took place outside the United States,
15 didn't it?

16 A Yes.

17 Q Now Spanish authorities entered Ana's apartment
18 eventually and noted that all of her electronics were gone,
19 right?

20 A Yes.

21 Q And isn't that indicative of the fact that she took them
22 with her? You're talking about a cell phone and a laptop,
23 right?

24 A But all of her belongings were there, like toothpaste,
25 the toothbrush. Her clothing, her personal items were there.

MONTILLA - CROSS - MS. WEINTRAUB

1 Q Okay, and you're --

2 A Her electronics were gone.

3 Q Okay. Sorry?

4 A Her electronics were gone.

5 Q Okay. If she's going for a day trip or going somewhere
6 she might take her electronic laptop and cell phone and a
7 couple of -- or a change of clothes, right, nothing unusual --

8 A Maybe.

9 Q Is there anything unusual about that?

10 A I -- well, no.

11 Q Now there's no evidence -- there was no evidence of a
12 struggle at that apartment either, was there?

13 A No.

14 Q And there was no sign that there was any violence in that
15 apartment at all, correct?

16 A There was blood found by the Spanish National Police and
17 they're in the process of doing the forensic examination.

18 Q Where is this blood found?

19 A In various places of the apartment.

20 Q So you would think that that's a very important fact,
21 right?

22 A Yes.

23 Q And it's so important that it's not even mentioned in the
24 complaint, is it?

25 A It is an important factor but it's not mentioned because

MONTILLA - CROSS - MS. WEINTRAUB

1 we don't have the results yet.

2 Q So then you're not considering that to be a factor
3 against David who stands here under the presumption of
4 innocence, is that fair?

5 A If DNA matches.

6 Q If. If -- no offense but as you sit here right now and
7 he has the presumption -- I'm sorry, Judge, excuse the
8 snarkiness.

9 As David stands here right now he is presumed
10 innocent, you do understand that, right?

11 A But we have a lot of other evidence that is pretty
12 strong.

13 Q Well, let's talk about a lot of that other evidence.

14 THE COURT: Let me ask you this question, how
15 certain are you that there was blood found in the apartment?

16 THE WITNESS: This is according to the Spanish
17 National Police.

18 THE COURT: They've informed you of that?

19 THE WITNESS: Yes. The forensic examiners have
20 found blood in the apartment.

21 BY MS. WEINTRAUB:

22 Q And that would have been from February when they went
23 there?

24 A February 4th when they went in there.

25 Q Okay. And it's now May what, tenth, yes?

MONTILLA - CROSS - MS. WEINTRAUB

1 A Yes.

2 Q And you haven't heard anything about that blood?

3 A We're waiting for getting comparison.

4 Q We're also waiting for Ana to come back with whoever
5 she's with, right? Because you're actively looking for her.

6 A We are.

7 Q Now, there was no evidence that Ana was taken against her
8 will, was there?

9 A No.

10 THE COURT: Now was there no video outside the -- I
11 mean, a video camera outside the apartment that would have
12 captured somebody --

13 THE WITNESS: So there is --

14 THE COURT: -- coming out?

15 THE WITNESS: -- a camera but it's apparently it's
16 not a video, it works when you press the apartment button, but
17 it was sprayed also.

18 THE COURT: Oh.

19 BY MS. WEINTRAUB:

20 Q And Ana, by the way, was a woman -- she had money in her
21 own name, right?

22 A Yes, she has some assets.

23 Q She had assets, she had property, yes?

24 A Yes. But David controlled all of it.

25 THE COURT: Where was the property located?

MONTILLA - CROSS - MS. WEINTRAUB

1 THE WITNESS: Excuse me?

2 THE COURT: Where was the property?

3 THE WITNESS: They had properties in Broward County.

4 Q And Ana had property in her own name, not --

5 A Yes.

6 Q -- with David, didn't she?

7 A Yes.

8 Q So when you say, well, David controlled it, I mean, you
9 really don't know that for a fact, it's in her name?

10 A Yes.

11 Q Okay. So isn't it fair to say she meets -- she goes off
12 to Madrid, we don't know to meet who or with whom, correct?
13 We don't know if she went alone, right?

14 A She went alone.

15 Q Do you know she wasn't meeting somebody?

16 A We know she -- she met people there, yes, and they were
17 interviewed.

18 Q Okay. Well, you didn't interview all of the men that she
19 dated, did you?

20 A All the ones we found, yes. They were interviewed by the
21 Spanish National Police.

22 Q Okay. All the ones you had found, had you gone through
23 her dating app to see how many there were?

24 A Yes.

25 Q And did you interview the men from that?

MONTILLA - CROSS - MS. WEINTRAUB

1 A The Spanish National Police did.

2 Q And --

3 THE COURT: Have you examined -- has there been any
4 further activity on either her social media or telephone or --

5 THE WITNESS: Nothing since February 2nd.

6 Q Do you agree that Ana was a person of means, 40 years
7 old, she was pretty, right?

8 A Yes.

9 Q And she was in Madrid by herself or with new friends,
10 right?

11 A Yes.

12 Q And she could have easily been a target for many
13 opportunists there; isn't that right?

14 A Maybe, but not -- again, not in this case as we --

15 Q David is a U.S. citizen, right?

16 A He's a U.S. and Serbian. David or Ana? Wait a second,
17 what did you say?

18 THE COURT: David.

19 A He's a dual citizen.

20 Q You're sure of that?

21 A David, yes.

22 Q Are you sure that when he became a U.S. citizen that the
23 Serbian citizenship had not been renounced to get the U.S.
24 citizenship?

25 A As far as I know he is a dual citizen.

MONTILLA - CROSS - MS. WEINTRAUB

1 Q And what are you basing that on?

2 A On information regarding --

3 Q That --

4 A Throughout our investigation.

5 Q Can you be more specific?

6 A Information received from immigration.

7 THE COURT: Do you know what --

8 THE WITNESS: We know that his passport had expired,
9 his Serbian passport had expired.

10 Q Okay, so that's what I was getting at --

11 A Oh.

12 Q -- is that you knew he had a Serbian passport and assumed
13 that he had dual citizenship, right?

14 A Yes.

15 Q Okay. But now you know that the Serbian passport
16 expired, right?

17 A Yes.

18 Q The only valid passport he has is the U.S. passport,
19 right?

20 A Yes.

21 Q Okay. He's lived in this country for -- well, first,
22 he's had two different legitimate businesses in Fort
23 Lauderdale for more than 10 years, right? That he's owned and
24 operated, they were mentioned in the Pretrial Services report.

25 A Yes.

MONTILLA - CROSS - MS. WEINTRAUB

1 Q So he had a legitimate IT computer data-based business,
2 yes?

3 A Yes.

4 Q And he also owned businesses and owned properties, some
5 with Ana and some without. Some she owned on her own, right?

6 A Correct.

7 Q David has no prior record, correct?

8 A Yes.

9 Q Are you aware, Agent -- one second. Are you aware,
10 Agent, that according to the statute, the kidnapping statute,
11 that involuntariness or coercion related to taking and keeping
12 of the victim is an essential part of the crime?

13 A Yes.

14 Q And can you tell us again what specific evidence you have
15 that Ana was coerced to be taken?

16 A Again, David was placed in Madrid, he was seen identified
17 by the owner of the hardware store buying the same spray paint
18 and duct tape --

19 Q Buying the same spray paint or the same brand?

20 A The same brand.

21 Q Okay. Do you know how many brands of spray paint there
22 are?

23 A Apparently in Madrid they were able to find the store
24 because it's not that common there and that's how they were
25 able to --

MONTILLA - CROSS - MS. WEINTRAUB

1 Q Madrid is a city, Madrid is not a small, little town,
2 right?

3 A So. They were able to --

4 Q But did he have (inaudible.)

5 A -- go to the store and review the surveillance camera
6 where they spotted David, full face, he was uncovered.

7 THE COURT: I'm going to ask, how well can you see
8 him on that video?

9 THE WITNESS: A hundred percent. You can see him
10 completely. He's not covered. The owner identified him fully
11 as David.

12 Q And --

13 THE COURT: You actually see him buying paint?

14 THE WITNESS: Yes. You can see him buying paint and
15 two rolls of the American duct tape.

16 Q And now can you answer my question about what evidence is
17 there that Ana was taken against her will by anyone.

18 MS. MONK: Judge, asked and answered.

19 MS. WEINTRAUB: It's not been answered.

20 THE COURT: Sustained.

21 I take it that you don't actually know how she was
22 taken?

23 THE WITNESS: Yes, correct.

24 MS. WEINTRAUB: May I have a minute, your Honor?

25 THE COURT: Sure.

MONTILLA - CROSS - MS. WEINTRAUB

1 (Pause in proceedings.)

2 BY MS. WEINTRAUB:

3 Q When Ana's apartment was searched, there were no
4 personal -- like her makeup kit wasn't there, there were
5 things that a woman of Ana's stature, so to say, a 40-year,
6 old pretty woman going out would have, like makeup kits and
7 personal toiletries, right?

8 A Yes, she did, she had like approximately seven boxes,
9 Home Depot boxes with her belongings.

10 Q Okay. So in those boxes was there makeup there?

11 A There was everything, there were purses, clothing,
12 motorcycle gear, personal items.

13 THE COURT: How long had she lived there or stayed
14 there I guess?

15 THE WITNESS: Um, I don't know.

16 Q Are you talking about the Fort Lauderdale apartment?

17 A I'm talking about the one 643 Eighth Avenue residence.

18 Q Okay. So that's in Fort Lauderdale.

19 A Yes.

20 Q No, no, I'm talking about in Madrid.

21 A Oh. In Madrid. Yes, she -- her belongings were still
22 there.

23 THE COURT: Can you tell me what was in them, what
24 was there?

25 THE WITNESS: Her clothing, toiletries.

MONTILLA - CROSS - MS. WEINTRAUB

1 BY MS. WEINTRAUB:

2 Q Do you know that toiletries were there or are you just
3 assuming?

4 A This is from the Spanish National Police.

5 Q Do you have a property receipt saying that?

6 A No, we have reports, the forensic reports.

7 Q And they mention specifically that the toiletries were
8 there?

9 A They just said personal belongings.

10 Q Okay. So personal belongings could be --

11 A It's a wide range. I mean, I cannot tell you
12 specifically toothpaste, what kind of brand of toothpaste --

13 Q Okay. So you can't --

14 A -- or how many toothbrush.

15 Q So you can't say that there were toiletries that were
16 there or makeup, you don't know. You just know that some of
17 her personal belongings were there and some weren't?

18 A I know there were four boxes of her belongings.

19 THE COURT: Last question?

20 Q From the investigation that you did do, can you tell us
21 when she started dating all these other people?

22 A So I know they had agreed to an open relationship
23 before -- to fix their marriage before she went to Spain.

24 When she traveled to Spain the 26th I know she had been --
25 she -- I don't know specific, but I know like two or three

MONTILLA - CROSS - MS. WEINTRAUB

1 dates.

2 Q So you do know that she had been cheating on David and
3 then she left the country, right? I mean, that's the bottom
4 line.

5 A They had an agreement of an open relationship, but I know
6 that David was -- had a girlfriend in Colombia.

7 Q And do you know what the timing of that was?

8 A No.

9 Q And do you know that she was a girlfriend as opposed to
10 somebody he just met on a dating app in March?

11 A I don't know this person.

12 Q The last question is, to sum up, there's absolutely no
13 evidence that anything took place to facilitate, coerce, to
14 take, to do anything to Ana in the United States, true?

15 A Can you repeat that question.

16 Q Yes. Is there anything -- it's your opinion, based on a
17 lot of assumptions, most respectfully, that she was kidnapped
18 as opposed to she's just gone off on one of her mental health
19 fits, my question to you is, is there anything to facilitate
20 the taking of Ana occur inside the United States?

21 Yes or no.

22 A No.

23 MS. WEINTRAUB: I hate this when I have to say no
24 further questions.

25 THE COURT: Any questions?

MONTILLA - REDIRECT - MS. MONK

1 MS. MONK: Just two, your Honor.

2 REDIRECT EXAMINATION

3 BY MS. MONK:

4 Q What is the last communication that was sent from the
5 victim's phone?

6 A February 2nd.

7 Q But what was the gist of the communications?

8 A She was going to stay home because she was not feeling
9 well.

10 Q Were there communications that were the same as those
11 that the defendant communicated to his associate in Colombia?

12 A Yes.

13 Q And were those the exact same communications that were
14 sent from the victim's phone?

15 A Yes.

16 Q Would that conclude you to believe that the defendant was
17 in the possession of the victim's phone?

18 A Yes, but that was -- sorry, I apologize.

19 MS. WEINTRAUB: I object because I don't understand
20 what's being asked or answered.

21 THE COURT: Overruled.

22 A No, it was on February 3rd when there was a text message
23 from What's up[sic] sent to her friends from Ana's phone.

24 Q And what information do you have that that text message
25 was actually sent by the defendant?

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1 A So, the defendant's girlfriend at the time went to the
2 police and said he -- she had the text where David is asking
3 her to translate a message into perfect Spanish.

4 MS. MONK: No further questions.

5 THE COURT: You may step down. Thank you very much.

6 THE WITNESS: Thank you.

7 (The witness was excused.)

8 THE COURT: Just turning it back to the government,
9 what are the jurisdictional basis for charging him here?

10 MS. MONK: Sure. So in 2006 the kidnapping statute
11 was amended to allow an offender's travel to provide the
12 jurisdictional basis. So if someone travels from the United
13 States and orders a kidnapping, that then provides
14 jurisdiction in the United States.

15 And there's a Fifth Circuit case in 2023 that is on
16 point on that. It's *United States versus Meyer*.

17 THE COURT: And that holds what?

18 MS. MONK: That being based on the 2006 amendment to
19 the kidnapping statute which specifically added in language if
20 it -- I'm paraphrasing here but, if an offender travels in
21 interstate or foreign commerce in furtherance or in the
22 commission of a kidnapping, then it is a violation of the
23 statute. And so in the *Meyer* case someone traveled from Texas
24 to Mexico in order to commit a kidnapping that occurred in
25 Mexico and the Fifth Circuit upheld that conviction based on

PROCEEDINGS

1 that 2006 amendment to the kidnapping statute.

2 THE COURT: And here specifically the travel you're
3 referring to was what?

4 MS. MONK: The travel out of Miami International
5 Airport was on January 27th of 2024. He even flies directly
6 to Istanbul, Turkey rather than flying to Madrid, then goes
7 into Serbia, rents the car and travels to Spain and we know
8 that he was in Spain both by digital evidence and the
9 eyewitness identification of him in the hardware store as well
10 as the video of him in the hardware store.

11 THE COURT: And did the defendant make any
12 incriminating statements or any statements at all?

13 MS. MONK: We knew he was represented so we did not
14 inquire of him.

15 THE COURT: Okay. Ms. Weintraub?

16 MS. WEINTRAUB: Judge, I'm glad that the prosecutor
17 brought that up because I forgot to ask and have the agent
18 confirm. I'm sure the prosecutor will confirm because I spoke
19 with her about it.

20 The defendant's mother lives in Serbia, she is an
21 amputee, she's elderly and sick and disabled. She's in a
22 wheelchair and he tries to see her as often as he can and take
23 care of her properly. He goes there frequently through the
24 years to see his mom and that's why he flew into Serbia. He
25 did not go to Serbia to go to Spain. I mean, there is no

PROCEEDINGS

1 evidence that he went to Serbia or went to Spain to facilitate
2 the furtherance of anything. There is no evidence of that.
3 He was in the United States and he went to see his mom and
4 dad. That's what the evidence is. The rest is really
5 speculation of how and when or where he got to Madrid or for
6 how long at all.

7 So I would submit to the Court there is a
8 significant jurisdictional issue, because unlike what was
9 passed in the Adam Walsh statute, the 2006 statute, this is
10 not the same as in *Meyer*. In *Meyer* there was -- you know, the
11 person went there to commit the crime. Well, he doesn't go
12 directly to -- I mean, he couldn't have just gone from Miami
13 to Madrid. It's a five and a half hour flight, I'm sure there
14 are people in this world who have done it.

15 THE COURT: Unless he was trying to hide his
16 appearance in Madrid.

17 MS. WEINTRAUB: Or unless he was going to visit his
18 elderly mom --

19 THE COURT: Right.

20 MS. WEINTRAUB: -- who was sick, and we're not
21 speculating because that we do know that he did do that.

22 We do know that --

23 THE COURT: Are you disputing that there were -- how
24 many miles, 7900 kilometers.

25 MS. MONK: It's 7,677 kilometers was the distance

PROCEEDINGS

1 that was traveled, that the distance the rental vehicle
2 traveled while it was in the defendant's possession. And I
3 believe a trip to Spain is around 2500 kilometers one way, so
4 total there and back it would have been about 5,000
5 kilometers.

6 MS. WEINTRAUB: And where else in Europe could he
7 have gone? I mean, should, you know, we play Where is Waldo?
8 I mean, there is no evidence.

9 THE COURT: Well, it's a circumstantial.

10 MS. WEINTRAUB: That is leap, it's not even the same
11 mileage. It's a huge leap. Is it possible, sure it's
12 possible that I could drive to Palm Beach, it's also possible
13 I could take the Brightline and go there. I mean, it's a just
14 a fact if I wind up in Palm Beach, how I got there, who knows?
15 There's many different ways I could have gotten there. My
16 partner, Chris Cavallo, could have taken me there. I mean,
17 there are many ways to get there. So because they're picking
18 out the one that, you know, matches nicely to go into the
19 round hole, that's not evidence.

20 THE COURT: Let's assume for the sake of argument
21 that -- and obviously we could -- you could develop this if we
22 wanted to, but I haven't seen it but let's assume that the
23 officer, the agent's testimony is accurate that the
24 surveillance video that the Spanish police were able to secure
25 evidences him buying duct tape and paint, let's assume for the

PROCEEDINGS

1 sake of argument. So you take that as a fact, why wouldn't
2 that then connect the dots to the theory that the government
3 is presenting?

4 MS. WEINTRAUB: Because he didn't go to Spain to
5 commit a crime. He went -- first of all, when he left the
6 United States he didn't go there.

7 THE COURT: But you wouldn't drive 7,000 kilometers
8 to buy paint and duct tape.

9 MS. WEINTRAUB: Judge, maybe he was going to --

10 THE COURT: They have that evidence.

11 MS. WEINTRAUB: -- paint the apartment --

12 THE COURT: They have it in Serbia, right?

13 MS. WEINTRAUB: Sorry?

14 THE COURT: They have paint and duct tape in Serbia
15 if you needed it, right?

16 MS. WEINTRAUB: That's true, but maybe he was
17 going -- Judge, I mean, I don't want to -- I don't want to
18 engage on this maybe, because there are too many maybes.
19 Maybe he was going to visit somebody. Maybe they were getting
20 back together again. Maybe Ana said come see me. Maybe he
21 never went to see Ana and he saw somebody else. We don't
22 know.

23 What we do know that he didn't go from the United
24 States to Madrid to commit a crime. And when the statute says
25 in furtherance of, it usually means something started here and

PROCEEDINGS

1 you go to do -- to stretch the elastic rubber band in
2 furtherance of, right just like with a conspiracy. So there's
3 no beginning here though. That's the problem. The beginning,
4 if at all is in Serbia. And I think we have enough crime in
5 the United States to focus on crimes that are committed here
6 and not in Serbia.

7 My point is that the statute is vague as to in
8 furtherance of. I think it makes just as much sense of what
9 I'm saying that in furtherance of means in furtherance of,
10 that it means it began here and goes to the next point which
11 would be Madrid which he didn't, and that it doesn't allow for
12 intervening paths. Well, if he went to, you know, Serbia
13 first for a month and then he plotted doing it, well then he
14 didn't go to Madrid in furtherance -- from the United States
15 in furtherance of committing or facilitating a kidnapping.
16 That's my point. My point is that this is a bond hearing and
17 that for purposes of bond, bond isn't to be punitive.

18 Even Pretrial Services recommends a bond can be
19 fashioned with a GPS monitor, turning in his passport. We
20 offered the prosecutor a bond asking if there were any
21 circumstances that you would consider to make an agreement, of
22 course it's within their rights to decline and they did.

23 But --

24 THE COURT: Let me ask you about that issue because
25 your point is well taken if, at the very best, in the light

PROCEEDINGS

1 most favorable to the government, it is entirely
2 circumstantial at this point, right? But on the question of
3 the risk of flight, given his ties to foreign countries, his
4 extensive foreign travel, the means that he has, how do you
5 deal with their argument that even on the basis of serious
6 risk of flight is too much.

7 MS. WEINTRAUB: Easy because he doesn't have his
8 passport anymore, they took his passport. The other one is
9 expired. If he's on a GPS monitor and he puts up his property
10 and a relative will co-sign the bond here, then what's -- and
11 then where is he going? He might have, you know, 50 people
12 that he's best friends with and his family in Serbia. He
13 can't get there. How is he getting there? I mean, if he
14 doesn't have a passport, he doesn't have travel documents and
15 he's on a GPS and monitor, how is he leaving the country? I
16 mean, we can't -- we can't say that it's a factor against him
17 that he has elderly parents there.

18 He has extensive ties here to the United States to
19 Fort Lauderdale where he's lived for 14 years. His businesses
20 are here --

21 THE COURT: You want to respond --

22 MS. WEINTRAUB: -- he has employees.

23 THE COURT: You want to respond to that?

24 MS. MONK: Yes, I would like to offer argument
25 generally. Earlier when I was answering your Honor's

PROCEEDINGS

1 questions, but I didn't have an opportunity to provide my
2 argument, so can I go ahead and do that?

3 THE COURT: Yes.

4 MS. MONK: So, yes, we are recommending that the
5 defendant be detained based upon the risk of flight and
6 danger. One of the factors that your Honor can consider when
7 making a bond determination is the strength of the evidence,
8 and with all due respect to the defense I really think their
9 argument just ignores all of the evidence that we've
10 presented.

11 We have the defendant renting a car in Serbia,
12 tinting the windows of a rental car, which is extremely
13 abnormal, removing identifying stickers, a report that it
14 appeared as if the license plate has been changed.

15 To your Honor's point, if he had legitimate business
16 in Spain, why not just fly directly to Spain. It's a
17 five-hour flight, as the defense attorney noted. Instead, he
18 goes out of his way, flies into Turkey, gets to Serbia, but he
19 does so immediately. So as to this point of, you know,
20 there's no evidence that that was his intent, again I think
21 that ignores the evidence. He flies out on the 27th and
22 within days he's already -- he's renting the car two days
23 later and then is traveling across the Serbian-Croatian border
24 on the 30th. So, you know, I think that ignores the evidence.

25 Then he's in the hardware store buying the exact

PROCEEDINGS

1 kind of items that are used by this phantom man who has the
2 same build that the defendant has, has facial characteristics
3 that are similar to him. There's a stolen plate that is
4 affixed to the exact type of rental car that he rented in
5 Serbia that's placed in Spain. We have GPS information
6 placing him in Spain. We have that stolen plate outside of a
7 motorcycle store where there's a report that the individual
8 who bought that helmet and the vest. When you do the
9 comparison of the receipt and what items are purchased, it's
10 the exact type of helmet that's used by this phantom man who
11 resembles the defendant spray painting the camera.

12 So the evidence in this case is extremely strong and
13 that doesn't even take into consideration this bombshell text
14 message exchanged where he's communicating with his
15 girlfriend, asks her to translate messages, and then lo and
16 behold those are the exact messages that are sent from the
17 victim's phone. So the evidence in this case is extremely
18 strong.

19 In terms of danger, I think the danger in this case
20 should be obvious at this point. I mean, we have a woman who
21 has been missing for three months and we don't know where she
22 is. And there's evidence that she was last with the
23 defendant. So obviously the government has a very strong
24 concern that she's been killed, that she's deceased at this
25 point.

PROCEEDINGS

1 THE COURT: Let me ask this question, have you done
2 forensic analysis of the rental car?

3 MS. MONK: That investigation is ongoing, but I will
4 say he kept it for a significant amount of time before turning
5 it in and the car has since been rented. But he -- we, you
6 know, obviously, believe her disappearance and potential
7 homicide happened on the second or the third. He then did not
8 turn the car in until March 15th, which I think is also
9 indicative of guilt. And so I'm certain that he would have
10 cleaned that car in the month's time that he had.

11 In terms --

12 THE COURT: Well, you would still though have to
13 concede even with everything you're saying in its entirety,
14 it's still a circumstantial case because we don't even know
15 what actually happened to her.

16 MS. MONK: It's a circumstantial case, but as your
17 Honor knows, I mean, the evidence is the same whether it's
18 eyewitness testimony, it's given the same weight. Direct
19 evidence and circumstantial evidence are given the same
20 weight. And here we have --

21 THE COURT: But if it's an entirely circumstantial
22 case, why isn't that a case that a defendant may want to
23 defend, why would he flee?

24 MS. MONK: Because he's facing a stat max of life
25 and 10 to 12 years in prison.

PROCEEDINGS

1 THE COURT: Only if he gets convicted. If it's
2 entirely circumstantial, why wouldn't he fight the charge?

3 MS. MONK: Because the circumstantial evidence is
4 extremely strong. What are the odds that he's in Spain buying
5 paint that is used to then spray paint the surveillance -- I
6 mean, that's innocent conduct. There is no reason someone
7 goes on a multi-country journey with stolen license plates and
8 tinted windows to spray paint someone -- I mean, that's just
9 defies common sense.

10 He's a person who has significant foreign ties. He
11 has a lot on the line here. It's a stat max of life. It
12 is -- if we do find a body that becomes a stat max of death.
13 Really his ties here are not as strong as the defense is
14 making it. I mean, he's essentially a single man at this
15 point, he has no wife. He has no children, and as the
16 Pretrial Services report notes, I mean he didn't even know the
17 contact information for his brother. So he can up and go
18 whenever he feels like it.

19 THE COURT: How do you respond to Ms. Weintraub's
20 point about --

21 MS. WEINTRAUB: First of all, his brother --

22 THE COURT: -- if you take away his means of travel,
23 how would he do that?

24 MS. MONK: He --

25 MS. WEINTRAUB: The definition in the pattern jury

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1 instruction is to kidnap a person means to forcibly and
2 unlawfully hold, keep, detain and confine that person against
3 that person's will.

4 There's never going to be any evidence of that. The
5 involuntariness --

6 THE COURT: Go ahead -- hold on. Go ahead and
7 answer my question.

8 MS. MONK: I'm sorry, what is your question, Judge?

9 THE COURT: Her question was that if we take away
10 his means of travel, the risk of flight is sufficiently
11 ameliorated.

12 MS. MONK: I would say this is a defendant who has
13 significant means, much more than the average defendant and
14 given those means it is much more feasible for him to flee
15 than the average. I think cutting off the GPS monitor does us
16 no good, that does nothing to reduce the risk of flight it
17 just let's us know when he's fled and at that point it's too
18 late.

19 MS. WEINTRAUB: I don't know how often that happens
20 but in over 25 years, I've never had a client who did that
21 honestly. I never --

22 THE COURT: I've had a defendant who did that.

23 MS. WEINTRAUB: I'm sorry. But I will also --

24 THE COURT: When you're here 20 years you'll have at
25 least a couple.

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1 MS. WEINTRAUB: Judge, furthermore at the end of the
2 statute and at the end of the instructions, it says,
3 involuntariness or coercion related to taking and keeping is
4 an essential part of the crime. Again, they don't even know
5 where she is. They don't even know when she got -- for all we
6 know, she's just doing this because she's psychotic. When she
7 has suffered mental health issues for years and, you know,
8 she's going to walk in the door. I mean, we don't know.
9 There are so many questions.

10 He's got a legitimate business. The fact that, you
11 know, they were splitting up is certainly not to be used
12 against him that she's single. He's only 36 years old. I
13 don't want to say it, but I have children older. I mean, he's
14 36 years old, he's got everything -- all of his assets are
15 here in the United States. His life has been in Fort
16 Lauderdale.

17 There is, it's -- it's -- it's -- it's almost not
18 fair to say, because it's a circumstantial case it still could
19 be and possibly and therefore and deprive him of his freedom
20 while we're waiting on Spanish police reports from more than
21 three months old already. I mean, what is the end game here?

22 Most respectfully, I think that a bond could be
23 fashioned with reasonable conditions of confinement that it
24 could be two of his properties, his brother can sign the bond.

25 I'm looking at the Pretrial Services record. Of

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1 course he not have any firearms, I don't think there were any,
2 GPS monitoring. I don't know if they could even -- I don't
3 know what is involved, I'm not going to even offer it.

4 And actually I disagree with Ms. Monk that by the
5 time they find out that the monitor is off, you know, he's
6 gone. That's just not true. Especially not on an
7 international flight. I mean, they get noticed immediately if
8 something is, you know, awry.

9 I had a case in Fort Lauderdale a month ago where my
10 client took the garbage out and wound up in the middle of the
11 street and it went off because he went in the middle of the
12 street, and they were police there within five minutes.

13 I mean, I don't know where she thinks he's going
14 without a passport or travel documents. And everything he has
15 is here, where is he going? If his brother signs it and his
16 property and it's extensive and do a million dollar bond,
17 Judge.

18 THE COURT: Last word, Ms. Monk.

19 MS. MONK: Just, Judge, you know, the cat is out of
20 the bag at this point. I think he's going to be all the wiser
21 now he knows the information that the government has that's
22 only going to make him more deliberate in his flight.

23 He obviously took steps to conceal his crime when he
24 committed it. It's the government belief he will do the same
25 when taking the opportunity to be given a bond to flee.

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1 The evidence in this case is strong. There's no
2 amount of property that would assure his attendance in court
3 given the penalties that are on the line. And we believe he's
4 both a serious risk of flight and a danger.

5 THE COURT: Okay. Well, I can't detain based on
6 danger because I think the evidence -- I can't make a finding
7 sufficient to detain him on danger. There is probable cause
8 to believe of course that he committed this offense, but
9 that's not sufficient for me to find that he's a danger,
10 because I have to do that on a clear and convincing basis and
11 I don't think, even in the light most favorable to the
12 government, I could do that.

13 The issue though is on the risk of flight that the
14 government has charged him, assuming the grand jury agrees and
15 indicts, the factors that the government relies upon are
16 significant. He's traveled to 30 countries throughout the
17 world, he has significant ties to Serbia, he has significant
18 means and the only way one can flee is through means. So this
19 actually is a case where you have sufficient serious risk of
20 flight in the record given the property that he has available
21 and his frequent travel and the nature of the case, because
22 even though I think it's a defensible case because the
23 evidence is circumstantial, that doesn't mean it's not
24 significant. So --

25 MS. WEINTRAUB: Well, actually I think it kind of

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1 is. And I think it does mean that. If it's a strictly
2 circumstantial case, and even the Court questions, you know,
3 and I'm sure the Court doesn't often say that it's a
4 defensible case, I'm sure of that in this building because I'm
5 here too and I know that most cases are not defensible. This
6 case is defensible. And it sure would help to have my client
7 in my office working with me, with investigators to defend
8 this case.

9 And there has to be a monitor system where without
10 travel documents -- I mean, he and Ana traveled extensively
11 together, I mean, that's what that was. So that's not to be
12 used against him. The fact that he was a successful shouldn't
13 be a factor against him. Whoever signs the bond they won't be
14 able to put up the money for anything else, there will be a
15 *Nebbia* requirement. So there was no ill gotten gain, he has
16 been successful so he shouldn't be punished for that.

17 And I think that there are conditions together that
18 do make a valid presentation for bond especially. I mean,
19 it's not -- it's not as if he went from A to B in furtherance
20 of. There are significant legal issues to be attacked in
21 this. They haven't gone to the grand jury yet --

22 THE COURT: Well, you may want -- you may actually
23 want to ask for a speedy trial.

24 MS. WEINTRAUB: And I also know that when they go to
25 the grand jury they're not going to be able to ask the

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1 questions that the agent couldn't answer. Because the bottom
2 line is, they are going to be asking a jury to speculate on
3 the coercion and the detention.

4 I just think, Judge, I know it's a close call --

5 THE COURT: It's a close call.

6 MS. WEINTRAUB: -- and I would ask the Court to err
7 on the side of fairness and not deprive him of his liberty.
8 He has no prior record, nothing, zero.

9 THE COURT: Ordinarily that counts but of course in
10 a potential kidnapping and murder case that's a different --

11 MS. WEINTRAUB: Not murder, not murder --

12 THE COURT: -- case.

13 MS. WEINTRAUB: -- seriously. And they are not
14 seeking an indictment on her.

15 THE COURT: They don't have enough information, they
16 only have at this point a potential kidnapping.

17 MS. WEINTRAUB: Well, Judge, and I submit they don't
18 even have that --

19 THE COURT: Right.

20 MS. WEINTRAUB: -- but it's not going to be a murder
21 case and I don't think that the kidnapping case is going to
22 last. And I think there are real significant -- and I think
23 the Court recognizes the jurisdictional issues that are
24 attached to this and that they are real. They're not -- these
25 are not speculative. These are real, substantial legal issues

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1 that have to be ironed out.

2 I looked, you know, in a cursory way in preparing
3 for this hearing and I couldn't find any case since 2006 when
4 the Adam Walsh statute was re-- was formed -- formulated to --

5 THE COURT: By the way, on that question why
6 wouldn't -- could the use of instrumentality of commerce in
7 furtherance of a kidnapping also be sufficient not just
8 travel?

9 MS. WEINTRAUB: Like what?

10 THE COURT: The WhatsApp messages from Madrid?

11 MS. WEINTRAUB: The WhatsApp messages from when he's
12 in Serbia?

13 THE COURT: And Madrid, right? According to the
14 government, right, according to the government their evidence
15 is that, if you believe their theory, that he commits the
16 kidnapping, he then gets her phone and sends those
17 communications while he's there, and he sends those
18 communications to people here.

19 Why would that not be a basis for jurisdiction, or
20 is that not. Ms. Monk, do you know?

21 MS. MONK: Judge, I will -- I mean, I haven't
22 explored that specifically, but the statute does include the
23 use of mail or any means of facility or instrumentality of
24 interstate commerce --

25 THE COURT: Right.

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1 MS. MONK: -- which I understand to be telephone,
2 the internet, things of that nature which I think we also
3 would have here, but also just say there has been a probable
4 cause finding. I think this is way outside the bounds of a
5 detention hearing.

6 MS. WEINTRAUB: Judge, the WhatsApp -- the WhatsApp
7 was not even alleged to have been in Madrid.

8 THE COURT: Well, what was the date of the WhatsApp
9 messages?

10 MS. MONK: It was February 3rd, the day after she's
11 last seen, so that would be during the commission of the
12 offense.

13 THE COURT: He's clearly --

14 MS. WEINTRAUB: Might have been, might not have
15 been. Might have left the country by then, maybe.

16 THE COURT: But even if he had been -- even if he
17 was on the road to Serbia it would still be a potential
18 violation if you're using a means of commerce, foreign
19 commerce for fraud purposes to further the crime, right? I
20 could be right, right? Okay.

21 Well, I'm going to let you defend the case as ably
22 you will be I know, and again, I can't make a finding of
23 danger because it's just not -- that's too circumstantial a
24 case; however, on the risk of flight analysis, even for
25 somebody who doesn't have a record, given the means that he

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1 has to flee and given the seriousness of the charge, I think
2 that that is a basis for detention.

3 Now I weigh, it's a close call, and I don't know who
4 the duty judge is this week. Ms. Monk, let me find out from
5 you if you want to appeal it, right, you have to the right to
6 appeal.

7 MS. WEINTRAUB: And, Judge, half the property is
8 already in conservatorship and the victim's family has
9 already, you know, initiated litigation to get money and
10 property, whatever --

11 THE COURT: Right.

12 MS. WEINTRAUB: -- and I don't do any of that, so I
13 don't really know because I'm a criminal defense lawyer so
14 what do I know --

15 THE COURT: Sure.

16 MS. WEINTRAUB: -- but if there was a way to set
17 that up, I mean if the Court's concerned that he has access to
18 money, we could address that.

19 THE COURT: Let's find out who is the duty judge,
20 is.

21 (Discussion off the record.)

22 MS. WEINTRAUB: And, Judge, I don't believe that --
23 you know, when the government says he has all these means, he
24 doesn't have access to liquid funds right now, by the way. I
25 don't know what the government is alluding to.

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1 MS. MONK: Judge, I don't think that's accurate
2 based on the information that I have. It's my understanding
3 that in the last couple of months he's sold several
4 properties. I think a decent amount of them are listed on the
5 Pretrial Services report. I don't think that's all of them,
6 but there are at least three homes that are listed that
7 were -- that -- maybe those are the remaining residences, but
8 I know he sold recently several --

9 MS. WEINTRAUB: Actually they --

10 MS. MONK: -- pieces of real estate.

11 MS. WEINTRAUB: I'm sorry, I interrupted, sorry.
12 They did not close and they are in conservatorship. That's
13 right, he did have deals going and they were stopped by the
14 victim's family and they have been stopped.

15 MS. MONK: This is outside the proffer and I don't
16 know that that's accurate, so I don't think your Honor should
17 rely on that representation.

18 THE COURT: All right. Do you know who --

19 THE COURTROOM DEPUTY: Judge, I'm looking --

20 (Cross talk inaudible.)

21 MS. WEINTRAUB: Would you take a representation from
22 the real estate lawyer in person?

23 THE COURTROOM DEPUTY: -- I can't find it here.

24 THE COURT: Shouldn't it be on the...

25 (Pause in proceedings.)

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1 UNIDENTIFIED SPEAKER: Judge Gayles.

2 THE COURT: Judge Gayles.

3 THE COURTROOM DEPUTY: Gayles, okay.

4 THE COURT: Judge Gayles is the duty judge this
5 morning.

6 MS. WEINTRAUB: I'm sorry?

7 THE COURT: Judge Gayles, he's the duty judge this
8 morning.

9 So, all right, I'm going to go ahead and grant the
10 government's motion on risk of flight because I need only a
11 preponderance of the evidence and the preponderance of the
12 evidence here establishes a serious risk of flight. I'm not
13 granting it on the basis of danger.

14 While you're in our custody you'll continue to have
15 opportunities to prepare for your defense and meet with your
16 family and you have a right to appeal my order to Judge
17 Gayles. Okay?

18 MS. WEINTRAUB: Thank you, your Honor.

19 THE COURT: Good presentation as always. Thank you.

20 MS. MONK: Thank you.

21 (Matter concluded.)

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1 I certify that the foregoing is an accurate
2 transcript from the official electronic sound recording of the
3 proceedings in the above-entitled matter.

4 s/ Georgette K. Betts May 17, 2024

5 GEORGETTE K. BETTS DATE

6 I N D E X

7 WITNESS PAGE

8 **ALEXANDRA MONTILLA**

9 CROSS-EXAMINATION BY MS. WEINTRAUB 9

10 REDIRECT EXAMINATION BY MS. MONK 31

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