

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

_____)
UNITED STATES OF AMERICA,)
)
vs.) CASE NO. 7:20-CR-167-M-5
)
JOSEPH MAURINO,)
)
Defendant.)
_____)

WEDNESDAY, AUGUST 18, 2021
DE NOVO DETENTION HEARING
HELD IN WILMINGTON, NORTH CAROLINA
BEFORE THE HONORABLE RICHARD E. MEYERS II
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

On Behalf of the Government:

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On Behalf of the Defendant:

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ABBY WASER

MICHELLE A. MCGIRR, RPR, CRR, CRC, RMR
Official Court Reporter
United States District Court
Raleigh, North Carolina

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I N D E X

WITNESS:

NCIS Special Agent Chris Little

EXAMINATION:

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* * *

1 (Wednesday, August 18, 2021)

2 **P R O C E E D I N G S**

3
4 (The defendant, Joseph Maurino, escorted into the courtroom at
5 3:23 p.m.)

6 (Chambers conference held off the record commencing at 3:34 p.m.)

7 (Chambers conference off the record concluding at 3:37 p.m.)

8 (Open Court at 3:38 p.m.)

9 THE COURT: I guess the appropriate order to manage this,
10 we'll have the clerk call the case. We have a superseding
11 indictment, which has changed the nature of the underlying charge
12 for which this defendant has not had an initial appearance, but he
13 has had an initial appearance where he's been formally advised of
14 all his rights.

15 So there's a question of what additional information is
16 necessary, whether or not we can waive that portion.

17 So let's call the case and address that first.

18 THE CLERK: USA v. Joseph Maurino.

19 THE COURT: Counsel, please state your appearance for the
20 record.

21 MR. CHETSON: Damon Chetson for the defendant, your
22 Honor.

23 MS. KOCHER: And Barbara Kocher, your Honor, for the
24 Government.

25 THE COURT: Mr. Chetson, does your client wish to have a

1 formal initial appearance on the superseding indictment? He's been
2 fully informed of his rights. You're here on the detention matter.
3 I believe we can proceed on detention now.

4 Do we need to read him the new charge so that it's
5 formally there or do you want to waive that?

6 MR. CHETSON: We can waive that, your Honor. And I'm
7 going to provide my client a copy of the superseding indictment
8 today here in court.

9 THE COURT: Okay. Do you need a few moments to go over
10 that with him?

11 MR. CHETSON: Your Honor, I did talk with him about it.
12 He hasn't had a chance to read the whole indictment at this stage,
13 but he has a copy and is going to read it here in court, but he's
14 been advised --

15 THE COURT: I'll give you however long you need for that
16 and you can inform the Court when you're prepared to proceed.

17 MR. CHETSON: Thank you.

18 (Attorney Chetson conferring with the defendant at counsel table
19 briefly off the record)

20 MR. CHETSON: Thank you, your Honor. I've reviewed it
21 with my client.

22 THE COURT: Okay. Shari, do we have a waiver for that?

23 THE CLERK: Yes, sir.

24 MR. CHETSON: May I approach?

25 THE COURT: Please do.

1 (Attorney Chetson retrieving documents from the clerk)

2 MR. CHETSON: I'm wearing a mask, your Honor, because I
3 was in the Sampson County jail yesterday so -- I'm vaccinated but...

4 (Attorney Chetson returning the document to the clerk)

5 THE CLERK: Thank you.

6 (The clerk providing documents to the Court)

7 THE COURT: All right. We're here on the *de novo* hearing
8 on detention based on Mr. Maurino's appeal of the magistrate judge's
9 detention order in this case.

10 I've read and considered Mr. Chetson's filing in this
11 case and under the statute, the *de novo* hearing is appropriate.

12 The United States has filed a third superseding
13 indictment, which now lists the defendant in a second count of the
14 indictment, which is Count Five; is that correct?

15 MS. KOCHER: It is, your Honor.

16 THE COURT: In particular, Count Five re-alleges
17 paragraphs 1 through 20, which were previously stated, and states
18 that: Beginning in or about June 2019, and continuing to the
19 present, in the Eastern District of North Carolina and elsewhere,
20 the defendants, Liam Montgomery Collins, also known as "Disciple,"
21 James -- Paul James Kryscuk, also known as "Deacon," Jordan Duncan,
22 also known as "Soldier," and Joseph Maurino, also known as "Bishop,"
23 willfully and knowingly conspired and agreed to willfully and
24 knowingly damage and attempt to damage the property of an energy
25 facility of the United States involved in the transmission and

1 distribution of electricity, in an amount exceeding or which would
2 have exceeded \$100,000, in violation of Title 18, United States
3 Code, Section 1366(a).

4 Specific to this defendant, it states: Liam Montgomery
5 Collins, also known as "Disciple," Paul James Kryscuk, also known as
6 "Deacon," Jordan Duncan, also known as "Soldier," and Joseph
7 Maurino, also known as "Bishop," researched, discussed and
8 critically reviewed at length a previous attack on the power grid by
9 an unknown group. That group used assault-style rifles in an
10 attempt to explode a power substation. That's paragraph H.

11 In paragraph J, it states: Liam Montgomery Collins, also
12 known as "Disciple," Paul James Kryscuk, also known as "Deacon,"
13 Jordan Duncan, also known as "Soldier," and Joseph Maurino, also
14 known as "Bishop," discussed using homemade thermite to burn through
15 and destroy power transformers. Thermite is a combination of metal
16 powder and metal oxide which burns at temperatures over 4,000
17 degrees Fahrenheit.

18 This allegation is a violation of Title 18, United States
19 Code, Section 1366(a).

20 Counsel, do the parties agree that this changes this to a
21 presumption case from what was previously not a presumption of
22 detention; is that correct?

23 MS. KOCHER: That is the Government's position, your
24 Honor.

25 MR. CHETSON: Yes, your Honor.

1 THE COURT: Okay. It's a presumption case.
2 Nevertheless, the Government has the burden of establishing -- I
3 think the defendant has set forth sufficient materials in his
4 filings to place at least the question in issue for this Court is to
5 decide whether or not there are any conditions of release which
6 would adequately ensure the appearance of the defendant or protect
7 the public from future dangerous acts of this defendant.

8 So I will allow you to put on your evidence, Ms. Kocher.

9 MS. KOCHER: All right, sir.

10 In previous experience with the Court, the Court had
11 noted review of the materials that had previously been submitted.

12 THE COURT: I've read all the materials that have been
13 submitted. I have -- we've been trying to do this on an expedited
14 basis so I have not had an opportunity. I've read the filings, I've
15 seen all the exhibits. I've not had an opportunity to listen to the
16 full two-and-a-half-hour transcript of the prior hearing.

17 MS. KOCHER: Thank you, sir. That is helpful to me. And
18 the video exhibits, did you have the opportunity to --

19 THE COURT: I did review the video exhibits.

20 MS. KOCHER: All right. Thank you, sir.

21 The Government would call NCIS Special Agent Chris
22 Little.

23 THE COURT: The witness will step forward and be sworn.

24 THE CLERK: Raise your right hand, left hand on the
25 Bible. Please state your name for the record.

1 THE WITNESS: John C. Little.

2 **NCIS SPECIAL AGENT CHRIS LITTLE**

3 having been duly sworn, testified as follows:

4 THE WITNESS: Yes, ma'am, I do.

5 THE CLERK: Thank you. You may have a seat.

6 THE WITNESS: Afternoon, your Honor.

7 THE COURT: Good afternoon.

8 Your witness, Ms. Kocher.

9 **DIRECT EXAMINATION**

10 BY MS. KOCHER:

11 Q. Agent Little, just for this Court's information, you have
12 been investigating this group from the origin of the investigation
13 itself; is that correct?

14 A. Yes, ma'am.

15 Q. And you previously testified last week regarding this
16 defendant, Mr. Maurino, having been involved with the group from
17 2017; is that correct?

18 A. Yes, ma'am.

19 Q. I want to turn your attention -- given the Court's
20 familiarity with the information that was provided last week, I want
21 to turn your attention to the new charge, and that is the conspiracy
22 to destroy an energy facility, and just briefly discuss that as it
23 may impact the Court's determination of detention.

24 First, did there come a point in your investigation that
25 you came to realize the group's interest in the power grid?

1 A. First became specifically aware to me when we started
2 doing reviews of returns from iCloud accounts, seeing images and
3 screen shots in some of the iCloud accounts returned that
4 specifically mentioned the power grid.

5 Q. All right. Now, whose iCloud returns were those?

6 A. Initially it was Liam Collins, Paul Kryscuk, Jordan
7 Duncan and Justin Hermanson.

8 Q. All right. And specifically, Mr. Maurino does not have
9 an iCloud account to your knowledge; is that correct?

10 A. Not to my knowledge, no.

11 Q. Was Mr. Maurino at all mentioned or referenced in these
12 returns that you reviewed?

13 A. Yes.

14 Q. In what way?

15 A. He was mentioned as Bishop, a screen name for the most
16 part, within the Wire group. I would see him active in the
17 encrypted communications of the group as Bishop.

18 Q. All right. And you were able to identify him as Bishop
19 how?

20 A. Multiple -- just from the way they would reference him or
21 things about him or a specific communication with Mr. Kryscuk where
22 he gives his name and address to Mr. Kryscuk and it says Bishop --
23 you know, as Bishop at the top on the application.

24 Q. And historically, what kind of things did you run into in
25 those texts and chats that indicated to you their interest in the

1 power grid?

2 A. Historically, the first that comes to mind is an image
3 that was circulated within Wire depicting an individual standing in
4 front of a power substation with a skull mask consistent with what
5 the group wore in their live-fire training in Boise, Idaho. So it's
6 the same mask and the individual appears to have similar equipment
7 and weapon as to what the group is seen training with in Boise.

8 It appears to be nighttime, individuals standing in front
9 of a power station, and then the caption under it, it says, do not
10 do this, do not be the type of person -- that's not a direct quote
11 from the image, but it says -- it's communicating, do not be the
12 type of person that becomes good at blowing up power substations and
13 getting away with it.

14 It's one of the first ones -- it's -- that struck me
15 first as far as significant due to the dress and appearance of the
16 individual, them standing in front of a power station and then just
17 the actual -- the text.

18 Q. Now, if I understand you correctly, the text is saying,
19 don't do it?

20 A. Right. It's -- but it's obviously an attempt to veil the
21 meaning of what they're saying and it's something that's done
22 frequently.

23 Q. Did other evidence regarding the power grid come to your
24 attention?

25 A. Yes. There were other pictures and memes in that fashion

1 that were communicated and then there's other direct mention of it.

2 For instance, through a combination of interviews of
3 individuals that were in the group, they discussed the -- they
4 informed me of their discussions within Wire of the power grid and
5 then those -- the information from what was told to me was
6 corroborated by other electronic evidence I saw.

7 Q. Can you give an example of something someone told you
8 that was later corroborated by evidence you saw?

9 A. Yes.

10 MR. CHETSON: I'm going to object to the, someone told
11 you, as opposed to who was saying what.

12 THE COURT: I think at this point, I'm sort of taking it
13 for what it's worth. Where the --

14 MR. CHETSON: Okay. No, I mean, I understand the last
15 rules.

16 THE COURT: -- I think at this point the objections --
17 we're in a detention hearing, the Rules of Evidence are
18 significantly relaxed. We'll allow Ms. Kocher to put on evidence.
19 You can engage in cross-examination --

20 MR. CHETSON: Thank you, your Honor.

21 THE COURT: -- and I think we'll --

22 MR. CHETSON: I apologize.

23 THE COURT: No, it's quite all right. I think figuring
24 out what our appropriate ground rules are as we recognize the Rules
25 of Evidence don't apply for this and we're trying to make sure the

1 Government's placed its evidence --

2 MR. CHETSON: Yes, sir.

3 THE COURT: -- in its most comprehensible manner and then
4 you can point out the holes as appropriate on cross-examination.

5 MR. CHETSON: Okay. Sorry, your Honor.

6 A. So, for instance, Mr. Zacharek, in our --

7 MR. CHETSON: Sorry, Mr.?

8 A. Mr. Zacharek. In our interaction with him, he described
9 the group specifically discussing a successful attack on the power
10 grid where a group used rifles to shoot a transformer. They used
11 flashlights to communicate; and he described the group as critiquing
12 that operation and talking about ways that that could have been
13 accomplished better.

14 And also I saw communications electronically that
15 highlight that the group was able to get away with it and that how
16 it appeared to be -- how encouraging that was that a group could get
17 away with something like that.

18 This is corroborated by other statements later made by
19 Mr. Womack stating that Mr. Hermanson showed him a video of a -- the
20 description given in the video is an identical attack to what was
21 described by Mr. Zacharek and he described a reenactment of the
22 attack.

23 From the details given to me about the attack, I was able
24 to find the attack they were referencing; and the details of the
25 attack are consistent with the Metcalf Power Station attack and

1 where the power substation was disabled and it caused a significant
2 amount of damage in an outage.

3 THE COURT: And it may be helpful, Mr. Little, or Agent
4 Little, I have not reviewed the audio from the prior hearing so I'm
5 coming to this with no knowledge of who Zacharek is and no knowledge
6 of who Womack is, what their relationship is. I'm assuming that
7 they are cooperating informants or witnesses of some description who
8 are familiar with these --

9 THE WITNESS: They are --

10 THE COURT: -- but they're not named or charged in the
11 indictment and don't appear anywhere as individuals from what I've
12 been able to read so far.

13 So I'm trying to -- let you understand the basis of the
14 Court's ignorance as to where we're starting. I didn't have time to
15 listen to the testimony that took place before Judge Jones so this
16 is *de novo* with my review of all of the exhibits that were filed and
17 the pleadings that were filed.

18 MS. KOCHER: Yes, your Honor.

19 THE WITNESS: I understand, your Honor.

20 Q. (By Ms. Kocher) All right. So starting back then with
21 Mr. Zacharek you mentioned. Who is he?

22 A. He was a member of the group that I believe he also
23 joined on or about the fall of 2017.

24 Q. Tell us more about Mr. Zacharek's involvement in the
25 group. Did he stay involved in the group?

1 A. He did. He was involved in the group throughout the
2 duration.

3 Q. And how did it come to pass that he was speaking with
4 you?

5 A. He's been interviewed by the FBI. I've been able to
6 speak with him and he was at Grand Jury.

7 Q. And what was his last occupation, to your knowledge?

8 A. He was a police officer.

9 Q. And is he still a police officer?

10 A. He is not.

11 Q. What happened?

12 A. He was publicly outed for his participation in the Iron
13 March forum we previously referenced in this investigation and
14 association with neo-Nazi ideology and he was fired from his
15 position in the police department.

16 Q. When did that happen?

17 MR. CHETSON: Can I get a spelling of his name?

18 MS. KOCHER: Do you know how to spell Zacharek?

19 A. It's Z-A-C-H-A-R-E-K to the best of my --

20 MR. CHETSON: Z-A-H-A-R-E-K?

21 THE WITNESS: I believe it's Z-A-C-H-A-R --

22 MR. CHETSON: Thank you.

23 Q. (By Ms. Kocher) Did he have a screen name?

24 A. Yes.

25 Q. What was it?

1 A. I believe he was Dealer.

2 Q. I'm sorry?

3 A. Dealer.

4 Q. Dealer? When was he -- I don't recall if you used the
5 word outed or what, but when was his relationship to a neo-Nazi
6 group revealed such that he lost his job as a police --

7 A. In October of 2020, shortly before arrests were made in
8 this investigation.

9 Q. Did he have communications with any group member after
10 his release from the police?

11 A. Yes.

12 Q. And tell us about those.

13 A. Specifically I recall communications with Jordan Duncan.

14 Q. All right. What communication do you specifically
15 recall?

16 A. They were text messages, I believe iMessages between
17 Jordan Duncan and Mr. Zacharek. It was regarding how he was going
18 to handle this. This had happened within the group previously to
19 Mr. Collins. Mr. Duncan appeared to be encouraging him to get to
20 Boise and that's what Mr. Duncan understood the plan to be. And
21 it -- from being able to communicate with Mr. Zacharek, that
22 stressed him out. He became scared and concerned at that point of
23 being -- because of being publicly outed and what that meant within
24 the group.

25 Q. What did that mean? Did he tell you?

1 A. He was afraid that the group would think he had talked or
2 given information to law enforcement and he feared retribution.

3 Q. So did he choose to go to Boise?

4 A. No.

5 Q. Where was he when law enforcement first encountered him
6 then?

7 A. I believe they found him -- law enforcement found him at
8 his parents' home in the State of New York.

9 Q. And that was on or about the day of the arrests of Mr.
10 Collins, Mr. Kryscuk and Mr. Duncan in Boise, Idaho?

11 A. Yeah. It was very close in proximity, but I don't
12 remember the exact date.

13 Q. And Mr. Zacharek has been cooperating since that time?

14 A. Yes, ma'am.

15 Q. Let me turn your attention to Womack. You mentioned that
16 Mr. Womack said that co-defendant Hermanson showed him a video
17 reenactment, if you would, of this Metcalf Power Station attack or
18 what you determined to be the Metcalf Power Station attack. Who is
19 Womack?

20 A. Maxwell Womack was a Marine in the same unit as Mr.
21 Collins and Mr. Hermanson. He was recruited into the group by Mr.
22 Collins and Mr. Hermanson.

23 Q. And how did you have the opportunity to speak with Mr.
24 Womack?

25 A. I spoke with him directly here and he was also

1 interviewed by NCIS and the FBI in October of 2020.

2 Q. And did he provide general information on the group as
3 well as that specific statement that you've testified to?

4 A. Yes, ma'am.

5 Q. Are there other persons that you've spoken with that are
6 not charged in the indictment that gave you information and enhanced
7 your understanding of the way the group operated?

8 A. Mr. Hermanson.

9 Q. That's co-defendant Hermanson?

10 A. Yes, ma'am.

11 Q. Returning then -- so Mr. Zacharek and Mr. Womack both
12 discussed the discussions by the defendants of this successful
13 attack on a power station. Do you recall -- let me first have you
14 describe the manner in which the digital evidence that you were
15 looking at would indicate whether or not this defendant, Mr.
16 Maurino, was involved or knew of that communication?

17 A. The screen names that are visible in that particular
18 screen shot and then additionally, we have digital evidence that Mr.
19 Maurino was an administrator for the group's chat and I've seen
20 other Wire conversations where Mr. Maurino, as Bishop, indicates his
21 involvement in the chat.

22 Q. All right. So specifically as relates to that described
23 attack on the Metcalf power station, do you have any specific
24 recollection as to Mr. Maurino's involvement in the discussions?

25 A. It would be that he was present for the discussions as

1 described by Mr. Zacharek. Mr. Zacharek described it as it was --
2 described and critiqued as a group specific to that -- specific to
3 what I've determined as the discussion of the Metcalf attack.

4 Q. Was the animated example of that power station attack
5 found on any of the digital media that you reviewed, do you know?

6 A. Not that I recall at this time. I recall seeing
7 something similar, but I would need to review it again as far as
8 that. I have found a reenactment that appears identical to what was
9 described by Mr. Womack and been able to view it.

10 Q. Let me turn your attention then to other types of
11 evidence in regard to interest in the power grid. Were there some
12 of these texts or chat screen shots specifically related to the
13 power grid?

14 A. Yes.

15 Q. What do you recall in that regard?

16 A. I recall specifically a conversation regarding replacing
17 BLM fliers in a given area of Boise that Mr. Kryscuk communicated
18 that he had torn down and wanted to replace with their own
19 propaganda. There were suggestions of what to -- what to replace it
20 with; and Mr. Maurino, as Bishop, suggested replacing it with the
21 slogan, the lights go out and so do you.

22 This is significant to me because of statements made by
23 Mr. Hermanson regarding how the group discussed the use of power
24 outages in their -- what he described as operations. This would be
25 creating an outage that diverts the police, causes chaos from the

1 outage itself, causes damage to the equipment, takes a long time to
2 replace and causes an outage of significant length; and then using
3 that to create a favorable operating environment to conduct an
4 assassination or murder of a specific person. So the phrase, the
5 lights go out and so do you, is significant.

6 It's -- additionally, the actual area is significant.
7 Putting that in Boise due to -- what I'm sure we'll discuss later,
8 but due to the handwritten list Mr. Kryscuk had of intersections
9 that we've discussed.

10 Q. Ultimately did you find a theme among any photographic or
11 videographic evidence that you came across in reviewing their
12 digital media?

13 A. I did.

14 Q. And what is that?

15 A. In addition to the initial -- what I -- meme I described,
16 there's other images circulated within the group of, for example,
17 three unknown individuals doing the Heil Hitler salute beneath large
18 power lines just situated in the distance directly beneath large
19 power lines that are above them.

20 Additionally, the group took a series of photos and video
21 while in Boise in the summer of -- in July of 2020. One image I
22 recall the -- I'm -- I don't know the exact term because I'm not a
23 photographer, but the group appears to be superimposed over a
24 panoramic view with a large power tower situated directly in between
25 them. So it would be two on the left, two on the right with this

1 large power line directly in between them.

2 Q. And were you able to identify any of the four people in
3 that photo?

4 A. Yes.

5 Q. And who were they?

6 A. They were Mr. Kryscuk, Mr. Duncan, Mr. Maurino and then
7 TC.

8 Q. All right. And TC is the juvenile brother of defendant
9 Liam Collins?

10 A. Yes, ma'am.

11 Q. Were there other photographs and videos taken of that
12 live-fire training?

13 A. Yes.

14 Q. And were there others that presented the pose, if you
15 would, in front of the tower, the transmission lines, as the one
16 you've described?

17 A. Yes. There were others, but the one -- the one I
18 described stands out to me so much because it appeared superimposed
19 and very purposeful. And then there was also other pictures and
20 videos of the actual training itself.

21 Q. And that training, you mean the live-fire training?

22 A. Correct. And that brings me back to why I also felt some
23 of the other statements were significant because that type of
24 training displayed -- appeared offensive in nature and it would be
25 the type of -- the type of act that would be conducted within the

1 outage is what it appeared to be.

2 Q. Did you find evidence, Agent Little, that the group
3 practiced operational security?

4 A. Yes.

5 Q. Can you tell us about that.

6 A. Operational security, or op-sec, was something that was
7 discussed on multiple occasions, specifically it's from screen shots
8 I've seen and then additional interviews and testimony from group
9 members regarding operational security and what measures were taken.

10 There were -- there was operational security sent around
11 the actual current communications and then operational security
12 around being able to conduct operations and get away with it in the
13 form of fake identity documents with fictitious names.

14 There was the practice of using burner phones within the
15 group -- prepaid phones you can pay cash for, put time on and aren't
16 associated with an individual.

17 There was the practice of not discussing direct plans on
18 electronic devices, as far as the very specific details. For
19 instance, Mr. Hermanson was advised to only write things down that
20 were -- to write them if they were specific planning, not to put
21 them on electronic media and --

22 Q. So would they exchange letters then?

23 A. Exchange letters between each other?

24 Q. Right. Is that how they did it, they would write the
25 specific plans down and exchange letters?

1 A. No, not to my knowledge. It was also if you needed to
2 discuss something important, it would need to be face-to-face. Like
3 a face-to-face conversation would be preferable.

4 There was also other understood rules about -- the term
5 used was snitches get ditches -- and it was presented as group
6 rules.

7 Q. And is this in the Wire chat that you mentioned?

8 A. Yes, ma'am.

9 Q. How long was that live-fire training there in Idaho?

10 A. It was multiple days. I don't remember exactly how many
11 days it was, but it was a matter of days. Not weeks, but it was a
12 matter of days.

13 Q. And was Mr. Maurino there the entirety of that training?

14 A. Yes. To my knowledge he was there for -- for the entire
15 time.

16 Q. I want to turn your attention to the idea of explosives.
17 Did defendant Duncan in particular amass, what the indictment
18 alleges, was a library of materials?

19 A. Yes, ma'am.

20 Q. And tell us about that.

21 A. It was a large quantity of documents stored on an
22 external hard drive that was seized from his apartment in Boise,
23 Idaho. There was information taken from the military on that hard
24 drive in addition to a large amount of explosives manuals that
25 covered topics, to include explosives made from ammonium nitrate and

1 covered incendiary devices utilizing thermite. It was an extensive
2 collection of those types of manuals.

3 In addition to how to make home-made silencers, how to
4 make firearms. There was documents regarding chemical weapons,
5 ricin.

6 Q. Was there any indication that he had shared that material
7 with any other member of the group?

8 A. Yes.

9 Q. Tell us about that.

10 A. I've seen a specific manual regarding how to build
11 silencers, that an identical manual was also -- the manual was on
12 Mr. Maurino's phone, an identical manual on Mr. Duncan's external
13 hard drive.

14 This extends to also other schematics and manuals that
15 were found on Mr. Kryscuk's iCloud and his device itself in addition
16 to TC. These were explosives manuals that pertained to detonators
17 and car bombs.

18 THE COURT: Were those found on this defendant's devices?

19 THE WITNESS: No, your Honor.

20 MS. KOCHER: I didn't hear the question, sir. I'm sorry.

21 THE COURT: Were those found on this defendant's devices,
22 the device related -- the material found on this defendant's device
23 was a how to build silencers manual; is that correct?

24 THE WITNESS: Yes, your Honor.

25 Q. (By Ms. Kocher) You mentioned there was information

1 about how to make thermite on Duncan's drive. Do I recall that
2 correctly?

3 A. Yes, ma'am.

4 Q. Was that information also located on any other device?

5 A. There was information how to make thermite on Mr.
6 Kryscuk's device -- or on his iCloud account. And at this time I'm
7 not sure if it was on his device when it was seized because I
8 haven't been able to fully review that device, but it was on his
9 iCloud.

10 Q. To that end, have you fully reviewed Mr. Maurino's device
11 at this time?

12 A. Not completely.

13 Q. What is thermite?

14 A. Thermite is a mixture of aluminum powder and oxidized
15 metal that is incendiary. It burns extremely hot, I believe over
16 4,000 degrees, and can melt steel. It's utilized by military to
17 penetrate armor. It's extremely hot.

18 Q. So it does have a military use?

19 A. Yes.

20 Q. Did any of the persons you spoke with tell you why they
21 would consider using thermite in regard to the power grid?

22 A. Yes. Mr. Hermanson indicated the thermite was discussed
23 as an option to use to burn through a transformer because it would
24 ensure the complete and total destruction of the transformer and
25 ensure -- or give them the best chance for the longest outage and

1 the most damage.

2 Q. And turning to this defendant, do you recall any specific
3 presence of Bishop in any of the writings or conversations that
4 happened in regard to thermite?

5 A. He would have been present for the discussion described
6 by Mr. Hermanson, but I'm not referencing a -- in that statement,
7 I'm not referencing a screen shot that I was able to read. I'm
8 referencing what was described by Mr. Hermanson as a group
9 conversation.

10 THE COURT: Can you describe for the Court where that
11 conversation took place, who was present and to the extent you know,
12 when it changed from could to would or should? That is, we could do
13 this. When does it change to, we will do this, plan to do this,
14 should do this. As opposed to, this is how we might, to, this is
15 what we want to do.

16 THE WITNESS: I guess -- as far as the use of thermite,
17 sir?

18 THE COURT: Yeah. And the power grid -- I'm trying to
19 figure out when we've crossed from planning from some future
20 perspective -- I understand from the prior hearing we've had in this
21 case regarding the future need to defend Idaho as a homeland at some
22 operational point in the future. That seems to the Court -- some of
23 the discussion in this case has been prospective. That is, some day
24 the U.S. will fall. We may need to defend Idaho. We need to be
25 prepared. We are the ones who are going to do it. We're going to

1 build a post fall-proof world out of science fiction. And then
2 there's the, we have a present, current plan to attack a particular
3 target. I'm trying to figure out where on the spectrum of possible
4 worlds the evidence takes us.

5 THE WITNESS: Yes, sir. I don't believe it's a future
6 of, it's going to fall and we're going to use this to defend
7 something --

8 THE COURT: Right.

9 THE WITNESS: -- I believe it's a, we're going to use
10 this to accelerate the fall and make it happen.

11 THE COURT: And that's what I'm trying to get to. Where
12 and how you see the plans taking place?

13 THE WITNESS: I see that as just from the consistent
14 ideology within the group as far as accelerating and creating that,
15 by using these types of operations to create that kind of chaos, but
16 I do not know a specific date that was set to do it.

17 THE COURT: All right. I'm not necessarily suggesting
18 you have an imminent, on Thursday we will do this, but next fall?
19 You know, if something else happens then, what do you -- you have
20 what appears two insiders who are participating in these
21 conversations at some point before things come apart. And I know
22 this is a detention hearing, we don't want to get into too much
23 detail. I'm trying to figure out where are we on the fantasy
24 reality, imminent plan, aspiration spectrum of trying to figure out
25 what we're trying to do.

1 And I'll leave that to you, Ms. Kocher --

2 MS. KOCHER: If I might ask a question.

3 THE COURT: Your witness. I'm just trying to figure out
4 where we are.

5 MS. KOCHER: Yes, sir.

6 Q. (By Ms. Kocher) Do you have reason to believe, Agent
7 Little, that locations were actually chosen?

8 A. Yes.

9 Q. And what is that?

10 A. Mr. Kryscuk maintained a handwritten list of multiple
11 intersections and a -- multiple intersections and a specific fuel
12 depot as described by his wife that he kept in his wallet.

13 Q. And that handwritten list was two-sided; is that correct?

14 A. Yes, ma'am.

15 Q. And if you would take a moment to describe the other side
16 of that list.

17 A. The other side contained 12 to 14 names of specific
18 individuals that were handwritten on the other side -- it's actually
19 an envelope and it was -- one side had the handwritten intersections
20 and the other side had the handwritten names.

21 Q. All right. And what information do you have about the
22 list of names?

23 A. The list of names contained individuals like the governor
24 of Oregon, the national leadership of BLM and other individuals.
25 Many of them were -- I guess I would describe them as local-level

1 politicians --

2 Q. And did --

3 A. -- or state level --

4 Q. Excuse me.

5 A. Sorry.

6 Q. That's okay. You can finish your sentence.

7 A. Or state-level politicians.

8 Q. And did either of the individuals to whom you spoke
9 discuss with you the purpose of this list?

10 A. Yes.

11 Q. And what was it?

12 A. I discussed it with Mr. Hermanson, who I did not -- I did
13 not inform him of the list, but he described a conversation in which
14 Mr. Kryscuk had made -- and others -- made comments that -- to
15 include Mr. Zacharek -- that for the group to accomplish their
16 goals, people would have to die. That is something I recall.

17 And then Mr. Hermanson described a group conversation in
18 which the group is saying, okay, how would we get started and he
19 indicates that Mr. Kryscuk says that it's -- don't worry about it.
20 I have a list of 12 to 14 people that we will check off the list.
21 Or he said, we will check them off the list.

22 And at the time, Mr. Hermanson didn't know or have
23 knowledge of an actual handwritten list. He didn't know that he was
24 referencing one, but that's the term used, I believe it was, check
25 them off the list.

1 Q. And did Kryscuk and Hermanson, not this defendant,
2 discuss specifically how some of those people on the list would be
3 murdered or assassinated?

4 A. Yes.

5 Q. Can you give us an example of that?

6 A. They discussed the use of car bombs. The best way to
7 install a car bomb in a vehicle, the way to -- best way to initiate
8 a car bomb within that vehicle; and also, as described by Mr.
9 Hermanson, the group discussed a way to use a wedge to enter a
10 vehicle undetected.

11 Q. For the purpose...

12 A. For the purpose of placing a device inside of the vehicle
13 without -- and then being able to enter the vehicle and not
14 appear...

15 Q. Was there evidence in regard to this list that anyone
16 within the group had actually attempted or had gained information
17 about the location of those individuals?

18 A. Yes.

19 Q. What is that?

20 A. Mr. Kryscuk had screen shots of home addresses for
21 individuals. I haven't seen it for all individuals on the list, but
22 I know it's more than one individual on the list he had screen shots
23 of their home address; and in one instance I can recall where he had
24 shared that screen shot with another group member. I believe Mr.
25 Collins.

1 Q. All right. Let me turn your attention back then to the
2 other side of that envelope and a list of intersections you said.
3 What did those -- on investigation, what did those intersections
4 turn out to be?

5 A. They turned out to be power substations in the Boise
6 area. Portland, Seattle, San Francisco and other locations in
7 California. And these locations were consistent with areas Mr.
8 Hermanson described as areas the group aspired to conduct
9 operations.

10 Q. And was the power company contacted upon finding that
11 list of power substations and the other things you've described?

12 A. Yes. The power companies in those respective areas were
13 contacted by the FBI.

14 Q. And what did they have to say about the significance of
15 those particular intersections and the facilities they had at those
16 intersections?

17 A. They said they would cause a significant amount of
18 damage, some would cause more damage than others, some would cause
19 longer outages than others; but they would cost millions of dollars
20 to replace.

21 And the FBI specifically asked one of the experts
22 regarding the substations what specifically thermite would do and
23 they confirmed that thermite would specifically cost -- cause the
24 most damage because it gets inside of the transformer and it's -- it
25 doesn't become a matter of replacing parts at that point because it

1 burns and melts from the inside.

2 Q. So you mean the entire transformer would have to be
3 replaced?

4 A. It would -- correct. It would have to just be removed
5 and replaced; and some of those take a very long time to manufacture
6 or replace.

7 Q. Did you notice anything relative to the list of
8 intersections and proximity to any of those addresses of the names
9 of the people on the back?

10 A. Yes. A specific instance I recall is the screen shot of
11 the name and address I just mentioned that Mr. Kryscuk had screen
12 shotted and then also shared with Mr. Collins. There are multiple
13 intersections on the handwritten list in close proximity to that
14 address in San Francisco.

15 Q. And is that consistent with what you learned from your
16 conversation with Mr. Hermanson, that they would -- taking out the
17 power grid would have a dual purpose of both causing chaos as well
18 as providing cover for their operations?

19 A. Yes, ma'am.

20 Q. There came a time when Collins, Kryscuk and Duncan were
21 all three located in Boise; is that correct?

22 A. Correct.

23 Q. Do you have evidence that they talked face to face about
24 power grids?

25 A. Yes.

1 Q. What is that?

2 A. Ms. Kryscuk, the wife of Paul Kryscuk, in an interview
3 with the FBI, stated that she overheard them discussing the power
4 grid while at their home in Boise, Idaho.

5 Q. Did it specifically reference something against the power
6 grid?

7 A. She referenced them discussing the grid going down, but
8 that they stopped -- as I understand it, she -- they referenced the
9 grid going down and she described as once they were aware of her
10 presence, they stopped discussing what they were discussing.

11 Q. All right. When is the last physical contact you are
12 aware that Mr. Collins had with Mr. Maurino where they could have
13 spoken face-to-face?

14 A. It would have been shortly after Mr. Collins' discharge
15 from the Marine Corp in September of 2020.

16 Q. And what was the occasion of their meeting?

17 A. Mr. Collins went to his house.

18 Q. Mr. --

19 A. Mr. Collins went to Mr. Maurino's residence in New
20 Jersey. He had loaded a rental vehicle up with belongings from the
21 Camp Lejeune area and went from Camp Lejeune to Mr. Maurino's
22 residence.

23 Q. Do you have any insight through the digital media what
24 that visit may have been about?

25 A. At this time I do not.

1 Q. All right. Had there been other visits, if you would, to
2 Mr. Maurino's house by or on behalf of Mr. Collins?

3 A. Yes.

4 Q. What was that?

5 A. Mr. Collins was able to arrange for an individual from
6 his military unit to deliver stolen body armor to Mr. Maurino at his
7 residence.

8 Q. And when was that, if you recall?

9 A. It was prior to September 2020. I don't recall the exact
10 date.

11 Q. Do you recall if it was in 2020?

12 A. It was.

13 Q. I want to turn your attention, Agent Little, to
14 tannerite. Are you familiar with that?

15 A. Yes, ma'am.

16 Q. What is it?

17 A. Tannerite is a binary explosive that comes in two parts.
18 Once they're combined, they can be -- it can be ignited through a
19 high impact, like a round. So you can shoot it and it can explode.

20 Q. So by round you mean a bullet?

21 A. A bullet, yes.

22 Q. And what are the two components of Tannerite?

23 A. Ammonium nitrate and aluminum powder.

24 Q. And do I recall that aluminum powder is one of the
25 potential ingredients in thermite?

1 A. Yes.

2 Q. And the indictment alleged that Mr. Collins asked both
3 Hermanson and MW. That would be Maxwell Womack?

4 A. Yes.

5 Q. To purchase 50 pounds of Tannerite for the group; is that
6 right?

7 A. Correct. 50 pounds each.

8 Q. Was there -- as we spoke briefly about operational
9 security, was there any operational security involved in their
10 description, that is Womack and Hermanson's description to you of
11 that interaction with Collins?

12 A. Yes. It was described to me that Mr. Womack was asked to
13 go on line and purchase it with a gift card so that a credit card
14 cannot be traced back to who purchased it. So, like, a cash gift
15 card.

16 Q. All right. Of the plans regarding the power grid, do I
17 understand the Government's evidence to be that Mr. Maurino was
18 involved in the discussions but -- and shared perhaps some of the
19 memes and the videos that have been described but did not, to your
20 knowledge, pursue purchase of any of the components of any explosive
21 device?

22 A. Not to my knowledge.

23 Q. Did the group overall share the information about what's
24 needed to make thermite, if you know?

25 A. I don't recall group -- the group sharing information

1 regarding thermite, but I recall the group discussing information
2 regarding ANFO.

3 Q. And what is ANFO?

4 A. ANFO is made from ammonium nitrate and it's the explosive
5 used by -- most famously by Timothy McVeigh in the Oklahoma City
6 bombing.

7 Q. And that ammonium nitrate is the other portion of
8 tannerite?

9 A. Correct. The other half, if you will, contains ammonium
10 nitrate. Of the two halves of tannerite.

11 Q. I see. And do you recall if Mr. Maurino was in that chat
12 or in that conversation in regard to ANFO?

13 A. I don't recall as far as seeing him in the screen shot,
14 but I do recall that it was in their group conversation.

15 Q. I want to turn your attention away from that charge in
16 the indictment now and just ask you generally, was there a plan,
17 discussion, thought given to any type of operation -- I think you've
18 used the word -- that was -- that does demonstrate Mr. Maurino's
19 involvement with the group?

20 A. Yes.

21 Q. And what plan -- I don't want to put that word in your
22 mouth, but what operation was that?

23 A. Mr. Hermanson described an operation to infiltrate a New
24 Jersey National Guard Armory to steal M240 machine guns.

25 Q. And what is an M240?

1 A. An M240 is a belt-fed, fully-automatic machine gun that
2 in the military it would take -- it's deemed like as a crew-served
3 weapon that generally more than one person will operate and feed the
4 weapon.

5 Q. And what would be the purpose of possessing M240 machine
6 guns, if Mr. Hermanson told you.

7 A. Correct. When I -- when I discussed that with Mr.
8 Hermanson, he bluntly said it was the lethality of the weapon
9 system; and it's something that, with the majority of the members
10 being in the military and being -- not only in the military, in the
11 infantry, they would all be very familiar with that weapon system.

12 Q. All right. How about the idea that it would be at a
13 National Guard Armory. Are M240s at all National Guard Armories?

14 A. Not to my knowledge.

15 Q. Is there familiarity by someone in the group with
16 National Guard Armories?

17 A. Yes. Mr. Maurino was in the New Jersey National Guard.

18 THE COURT: Can you tell me what the relationship is to
19 Government's Exhibit 9, which appears to be photographs of squad
20 automatic weapons?

21 THE WITNESS: Those -- yes, sir. That was from Mr.
22 Maurino's phone.

23 THE COURT: Okay.

24 THE WITNESS: And it was taken with his -- from looking
25 at the forensic extraction, I can see that it was taken with his

1 phone. It's not a screen shot of another image.

2 MS. KOCHER: Taken from his phone.

3 THE COURT: Okay. And so Government's Exhibit 9, do you
4 know what location is that? Is that the New Jersey National Guard
5 location?

6 THE WITNESS: I do not know that is the specific
7 location. The location data for that image is not available.

8 THE COURT: And he served previously overseas as well?

9 THE WITNESS: Myself?

10 THE COURT: No. This defendant served overseas as well,
11 correct? He was deployed?

12 THE WITNESS: Yes, your Honor.

13 Q. (By Ms. Kocher) Did this plan, in regard to entering a
14 National Guard Armory and stealing the M240s, have any bones to it?
15 Was it just that broad or was there more information?

16 A. There was specific information given to Mr. Hermanson in
17 a face-to-face setting with -- person to person, face-to-face with
18 Mr. Collins regarding that plan; and Mr. Collins expressed to
19 Hermanson that there were two guards that they would need to kill to
20 gain access.

21 Q. Did they have a plan to access the facility overall?

22 A. To get initial access they would use Mr. Maurino's
23 National Guard affiliation.

24 Q. Can you explain how that would work --

25 A. He would have a uniform and an identification card that

1 would allow him to get -- I don't know specifically what their
2 protocols are like there but, generally, at these facilities, your
3 uniform and ID card would get you inside the actual fence line and
4 close to the building or even inside.

5 Q. Are the guards typically then at the building as opposed
6 to at the fence line?

7 A. I don't know how specifically it would work at a National
8 Guard Armory.

9 Q. All right. Just simply that Hermanson said that Mr.
10 Collins told him in a face-to-face -- was that at Camp Lejeune?

11 A. Yes. Or it was in our district. It was in the -- at
12 Camp Lejeune or in the Jacksonville area if they were off base.

13 Q. All right.

14 A. That he made it clear that they had specifically
15 identified there was two guards on duty at a given time.

16 Q. All right. Looking back over the exhibits, Government
17 Exhibit 5, appears to be a series of text messages. The middle one
18 bears the name Nelson Wivera [phonetic] and says, he one of your
19 boys? Is that the exchange in regard to the delivery of the stolen
20 body armor that you described earlier?

21 A. Yes, ma'am.

22 Q. All right. And Government's Exhibit 6 is a man in a
23 skull mask with a hat and holding a firearm. Do you recall that
24 exhibit?

25 A. Yes.

1 Q. Do you know who's in that photo?

2 A. Can I see it? Would you hold it up?

3 MS. KOCHER: Yes. If I may approach, your Honor.

4 (The Court displaying Exhibit to the witness)

5 A. That is Mr. Maurino.

6 MS. KOCHER: Thank you.

7 Q. (By Ms. Kocher) Are you able to identify the weapon that
8 he's holding there?

9 A. Yes. It appears to be a short-barrel rifle and it
10 appears consistent with what was seized at his home in October.

11 Q. All right. Exhibit 7 is two individuals sitting on the
12 tailgate, it appears, of a vehicle. Do you recall that exhibit?

13 A. I do.

14 Q. And do you know who was sitting on those?

15 (The Court displaying Exhibit to the witness)

16 MS. KOCHER: Thank you, your Honor.

17 A. That is Mr. Maurino and TC and those are the skull masks
18 I was describing earlier when -- the initial image I described
19 outside of a power station.

20 Q. (By Ms. Kocher) And Government's Exhibit 8 is a series
21 of text messages that begins: I'll need list of ammo to get, and
22 then, I got seven Mack 11s. And then my copy is illegible. To the
23 right, it says, about eight, I think 38s, nine 9s. And then it goes
24 on, the response is by Rick V, and it says, word. Do you recognize
25 what that exhibit would be?

1 A. Yes, I do.

2 Q. What is that?

3 A. That is the excerpt from a chat Mr. Maurino had with
4 another group of individuals outside from what's already been
5 described as the actions taking place in Boise. That is a separate
6 chat group that appears to have been started on the Signal
7 application and that appears to be referencing weapons Mr. Maurino
8 says he has.

9 Q. All right. Based on the context of this particular
10 screen at the first page of Exhibit 8, was there other conversation
11 about getting together ammo for practice, if you would?

12 A. Yes, ma'am.

13 Q. I'm sorry?

14 A. Yes, ma'am.

15 Q. Do you recall discussions about exchanging money or
16 repaying one another for ammo and other items they had gathered?

17 A. Yes, I do.

18 Q. I notice on the second page of Exhibit 8 there is a text
19 or message which says, download Wire and add me on it. It'll be
20 better to move there. I'll make a group chat.

21 Do you recall who wrote that or whose account that was
22 written on?

23 A. That's Mr. Maurino.

24 Q. And, again, given the context of all of this, what can
25 you tell the Court about the move to Wire? What would be the

1 purpose of that move?

2 A. Operational security. Wire was perceived as more as a
3 safer platform to utilize than Signal.

4 Q. Did you find in the larger text strings admonitions by
5 this defendant to the others about not continuing to discuss
6 whatever the topic was on that? And by that I mean --

7 A. When the topic would turn to specific firearms and
8 firearms purchases, Mr. Maurino would either advise that he would
9 discuss it on Wire or he would discuss it in person.

10 Q. All right. The third page of Exhibit 8, Agent Little, an
11 individual says, I was forced to hang out with an annoying Jew
12 against my will. Then the response is two separate texts. The
13 first one says, eh, everything has a silver lining; and the second
14 one is, social interactions like that and learning to be likable by
15 people who you don't like and should hate you is an experience-only
16 ability. Do you remember that?

17 A. I do.

18 Q. Tell us what -- about that.

19 A. I remember reading the conversation. And to me, it
20 highlights his awareness of the need to be able to hide in plain
21 sight within society or, for instance, within the National Guard
22 without alerting those that should be concerned with him without
23 alerting them of his true feelings or views --

24 Q. I'm sorry. Do you have actually an example of that from
25 the information and evidence you've reviewed; that is, Mr. Maurino

1 hiding in plain sight?

2 A. What comes to mind is an article the Army Times did about
3 him and his brother deploying together as identical twins and that
4 they were both going to Qatar at the same time. So the Army Times
5 does the article, but at the same time, even throughout his
6 deployment, Mr. Maurino's participating in this group and continuing
7 to keep in communication with Mr. Kryscuk and utilize the Wire
8 application.

9 Q. And do you know, sir, if the ongoing participation in
10 such a group is itself violation of the Military Code of Justice?

11 A. It is.

12 Q. As a member of the National Guard, would he have been
13 subject to that?

14 A. Yes. He would have been subject to it while he was
15 activated and deployed to Qatar certainly.

16 Q. All right. And I had asked about if there were -- in the
17 larger context of Exhibit 8 -- if there were admonitions to the
18 parties. I would just -- in that Signal chat, I would note that at
19 page 5 of Exhibit 8, in the center, Big Ben appears to say, I want a
20 good pew-pew. Do you recall that text?

21 A. I do.

22 Q. Again, from the context, what did you discern Big Ben was
23 talking about?

24 A. He was talking about a firearm.

25 Q. And the response is, okay, dummy, we can talk in person.

1 A. Correct.

2 Q. Do you know who responded in that manner?

3 A. Mr. Maurino. I believe he also asked him, does he want a
4 specific brand or something more underground.

5 Q. All right. And that would be part of the Government's
6 evidence as to Count One?

7 A. Correct.

8 Q. Agent Little, are the persons you've described as
9 cooperators in custody or out?

10 A. They are out.

11 Q. And are the targets, for lack of a better word, the
12 persons on that list of names that you've described, are they, to
13 your knowledge, out and about with their regular lives?

14 A. Yes.

15 Q. The persons in that additional group, participating in
16 the message in Government's Exhibit 8, do you know if they are in
17 custody or out and about at this time?

18 A. They are out.

19 Q. Do you have concerns in regard to Mr. Maurino's access to
20 weapons?

21 A. I do.

22 Q. And what are those based upon?

23 A. There are unaccounted for weapons. We seized the -- one
24 unserialized lower receiver and short barrel upper, but they're --
25 for instance, the number of weapons he describes in the Signal group

1 were not recovered. To my knowledge, like the folding stock lower
2 that he was seen retrieving from the backpack gun in that video and
3 firing at the group of targets, that that particular folding stock
4 lower was not recovered.

5 And then additionally, the later group that we described
6 from the Signal chats from our evidence we discussed regarding the
7 purchase of three unserialized lower receivers from Mr. Kryscuk, we
8 did not recover all of those. We recovered one from Mr. Maurino,
9 but then that would indicate there's maybe others out that he would
10 have access to or be given access to.

11 Q. That specifically referencing the conduct described in
12 Count One of the indictment; is that right?

13 A. Yes, ma'am.

14 Q. The overall conspiracy to manufacture and provide the
15 firearms.

16 You testified, I believe, Agent Little, that this
17 defendant was an administrator of this group chat; is that correct?

18 A. That's correct.

19 Q. Did he have other positions of leadership in this group?

20 A. Yes. He was part of vetting interviews of -- prior to
21 someone's acceptance into the group.

22 Q. And can you give any specifics about that?

23 A. These interviews were described to us by Mr. Hermanson
24 and Mr. Womack. They would -- after a trial period within a
25 separate chat, they would make it to what sounds like a formal

1 interview that is done over Wire in an encrypted voice conversation,
2 not text, but encrypted voice conversation, and they were asked
3 specific questions about their skills, because the group was seeking
4 people with specific skills, skill sets within the military, and
5 then special skill sets of their own. Like their own special niche
6 they would fill for the group.

7 They were asked questions like who their enemies are and
8 their world -- questions regarding their world view.

9 Q. All right. Specifically, did you have someone tell you
10 that Mr. Maurino was on their vetting committee?

11 A. Yes.

12 Q. And who was that?

13 A. Mr. Hermanson.

14 MS. KOCHER: No further questions, your Honor.

15 THE COURT: I've got a follow-up question about the
16 Biggie Smalls' lyric.

17 MS. KOCHER: About the what? I'm sorry.

18 THE COURT: About the Biggie Smalls' lyric. I got seven
19 Mack 11s, about eight 38s, nine 9s. That's a Biggie Smalls' lyric.
20 Are we looking for those firearms?

21 THE WITNESS: I don't know. I don't recognize that.

22 THE COURT: This is in the Government's Exhibit 8 where
23 it says, I've got seven Mack 11s, about eight 38s, nine 9s. That's
24 a rap lyric.

25 MS. KOCHER: I'm --

1 THE COURT: The Court's independently aware of that.

2 MS. KOCHER: And it's a what? I'm not understanding the
3 words, sir. I apologize.

4 THE COURT: So if you look on page 8 --

5 MS. KOCHER: Yes.

6 THE COURT: -- Government's Exhibit 8, page 1 --

7 MS. KOCHER: Yes.

8 THE COURT: -- where he says, I'll need a list of ammo to
9 get. Then he says, I got seven Mack 11s, about eight 38s, nine 9s.
10 I understand the rest. We're about to get 308 12 gauge pigeons.
11 That's a genuine shopping list, but that to me seems like he's just
12 tossing a Biggie Smalls' lyric into the chat.

13 THE WITNESS: I don't recognize the lyrics is what I'm
14 saying, sir.

15 THE COURT: Okay. Yeah. Well, that is a Biggie Smalls'
16 lyric.

17 MS. KOCHER: I am still not understanding the word. I
18 apologize.

19 THE COURT: Biggie Smalls? Biggie Smalls is a dead
20 rapper.

21 MS. KOCHER: Oh.

22 THE COURT: It's a lyric from a song by the dead rapper,
23 Biggie Smalls.

24 MS. KOCHER: Got it.

25 THE COURT: There's a lot of other stuff going on here,

1 but that particular one is not compelling. So I'll pass that on for
2 what it's worth.

3 All right. Mr. Chetson, your witness.

4 MR. CHETSON: Yes, your Honor. And we're nearing 5. I
5 don't know what you want to do.

6 THE COURT: I think the Court can -- we can -- I'm
7 unavailable until 3:30 tomorrow. I can look at personnel here and
8 see -- I don't want to hold everybody longer, but if we -- I'm
9 trying to get a sense of how long we think it will take to wrap this
10 up.

11 (Discussion between the Court and the deputy clerk off the record)

12 THE COURT: We don't have a court reporter tomorrow. I'm
13 not supposed to be in the building at all. How soon I could get
14 back from -- I'm supposed to be out of town.

15 We can -- if we think we can do -- I'm willing to stay
16 until 5:30 if we think we can do this, if we have personnel to cover
17 that.

18 MR. CHETSON: Your Honor, I'm happy to resolve this by
19 5:30, however, the Government has gone on for now an hour and
20 15 minutes or so. I don't want to try this case -- I'm sorry for
21 sitting. I don't want to try this case, but that's basically what
22 we've done. And I don't really -- I'm not saying I need three hours
23 or something like that, or two hours, but I have some real -- and I
24 don't want to --

25 THE COURT: Well, I've read the pleading. I think there

1 is the discovery, try-the-case question, and there's the question,
2 which what I haven't heard and I'm concerned about is, I'll tell
3 you --

4 MR. CHETSON: Yeah, yeah.

5 THE COURT: -- this particular defendant was charged
6 criminally in New Jersey, has been out on bond since that time.

7 He's been aware -- he's been questioned by the Federal
8 Bureau of Investigation very early and I'd like to know when. He
9 has been aware that there's a federal investigation. He's been
10 aware that all the other members of this group with which he was a
11 participant -- there's a whole separate question about his trial.
12 That's not the case.

13 MR. CHETSON: Right.

14 THE COURT: The question is he knows that those folks
15 were federally arrested, he's been federally interviewed and he's
16 been at liberty; and all of the concerns we have that we say are
17 present concerns, were concerns starting back at the initial federal
18 interview. And if he was going to do something to those people in
19 the interim, it seems to the Court that that's likely to have
20 happened.

21 So I'm trying to get -- that's what makes this defendant
22 different from Kryscuk and some of the other defendants is, he looks
23 different to me; and I'm trying to get a sense where we are.

24 I'm happy to take that by proffer instead of by witness
25 if we think that's going to be more effective.

1 MR. CHETSON: Sure. Yes, your Honor. The other issue,
2 I'll just say there's been a lot of statements made by this agent
3 and I can cross him on all the statements, but it's about
4 present-in-a-chat type stuff, right, as -- and I can go through and
5 we can go through each one and see whether this agent can say what
6 my client was saying.

7 Because there's a difference, your Honor -- and I don't
8 mean to just get into argument here -- but there's a difference
9 between existing in a chat -- and I'm very familiar with the
10 Internet and chat systems and so forth and I can draw that all out
11 from the agent; but being present in a chat or being involved in a
12 chat and what that means versus, yes, saying something, you know.

13 I'm logged on to chats right now, your Honor, with
14 lawyers that -- on Signal -- that they're saying things. Now, I try
15 to limit what chats I get into, but if they're saying things in
16 there and I'm present, am I involved? And so that's kind of where
17 we are.

18 And given -- and I don't want to spend three hours
19 cross-examining the witness, but the issue becomes what is he
20 saying. And I get the difference between conspiracy and what they
21 can show in a conspiracy and overt acts and all that, and I
22 understand what the Government can do there; but this is quite a
23 different issue where we're talking about somebody's liberty status.

24 And so I'm happy to -- I don't mean to belabor the
25 question, but I can go through all those things. So that's number

1 one.

2 Number --

3 THE COURT: Go ahead. I'll take number two.

4 MR. CHETSON: Yeah. So that -- I don't want to give up
5 my opportunity, but by the same token I don't want to belabor issues
6 that the Court is not -- some things are concerning about this
7 certainly. Yes, your Honor.

8 THE COURT: There's a question of whether or not he's had
9 short-barrel rifles, unregistered receivers. All the firearm
10 counts. There's the extent to which the conspiracy to do damage to
11 the power grid is immediately present, sometime out in the future.
12 There's that set of questions.

13 And there's the question that's pressing to me today,
14 which is this defendant's been at liberty for six months prior to
15 his arrest.

16 MR. CHETSON: Right.

17 THE COURT: What's the danger that we can develop --

18 And you would have gotten it on redirect anyway, Ms.
19 Kocher.

20 So I'm going to give both of you -- and I think we may be
21 better off proceeding by proffer rather than testimony of the
22 witness regarding the information between the time of his state
23 arrest and now, that suggests that he won't show up or that he is a
24 genuine clear and present danger.

25 MR. CHETSON: And I'm happy to move expeditiously, your

1 Honor. So what I'll do is -- can I go by proffer right now and
2 then --

3 THE COURT: Proffer right now. To the extent you need to
4 ask specific questions of the witness --

5 MR. CHETSON: Thank you. I didn't want to give up my
6 right to ask questions.

7 THE COURT: Okay.

8 MR. CHETSON: So what I will say -- and I'm going to
9 refer to essentially Bates numbers, your Honor, for some of this
10 stuff. Because I've had an opportunity since last week to go
11 through a bunch of the discovery that was provided to me by the
12 Government.

13 And if I could sit, your Honor, while I --

14 THE COURT: Please do.

15 MR. CHETSON: It is clear that my client is arrested on
16 or about -- and I think I said in my motion, maybe October 22nd, but
17 it may be -- there's two different dates that appear, but
18 October 20th essentially was within that two-day period, your Honor.

19 The next day after his arrest on state charges for the
20 firearms, the state New Jersey firearms case, he's released from
21 custody, state custody that day and he speaks with the -- he speaks
22 with the Government, the FBI agents, in New Jersey at his home.

23 That occurs on October 23rd with Special Agent Franheim
24 [phonetic], Manley [phonetic] and Task Force Officer Schmidt.

25 He initiated a conversation. I will say that at that

1 point, he had a state criminal defense attorney who had been
2 retained. The Court may have seen the exhibit that I presented
3 about his conduct.

4 THE COURT: I have.

5 MR. CHETSON: But in any case, my client's mother, who's
6 present in court, reminds him through the Ring audio, you know, your
7 attorney said don't talk, but he continues to talk and say things,
8 which is fine.

9 I simply say that in terms of, to the extent he was
10 supposedly engaging in operational security, he's telling them
11 things and admitting conduct, including that he is Bishop, right.

12 Now he doesn't say what he said is Bishop, but the idea
13 that he is Bishop he admits to, your Honor. And so maybe against
14 what his attorney might say, he does that.

15 The Government comes back -- they do a partial -- at
16 least a partial search of the home, your Honor, because they seize a
17 number of books and literature from him. They return to the home in
18 November to return those items. They don't notice anything amiss
19 about the home.

20 I'll just proffer to you that the home is a -- a middle
21 class home in Manalapan, New Jersey. It is a suburban home tract --
22 sort of a suburban home. You can imagine what it might look like.

23 They returned to the home in November. Don't see
24 anything amiss. Drop off the books.

25 In January he -- my client -- is scheduled to participate

1 in a mass vaccination site in New Jersey as part of the Army
2 National Guard duty. At that time he is still in the Army National
3 Guard.

4 I will tell the Court that during this time, the FBI and
5 perhaps NCIS -- but at least the FBI -- apprises the Army National
6 Guard of my client's -- of the investigation and the existence of
7 the state charges, which -- and they follow up in January and then,
8 I believe, again in February, and then to ensure that he has
9 been term -- that he has been administratively discharged.

10 So he is at this point in our history, he has been
11 administratively discharged under general, but with honorable
12 conditions.

13 I say that, one, to sort of dispel the notion that he's
14 independently doing something as a bad soldier apart from this
15 conduct and say that he was administratively discharged.

16 In February -- or in March rather -- the Government
17 simultaneously is engaging in interviews with Mr. Hermanson. They
18 have a conversation with Mr. Hermanson back in October and I think
19 he's in Okinawa. During that -- they spell out for him, you know,
20 you know you can help yourself.

21 Mr. Hermanson begins talking to the Government. The
22 Government -- Mr. Hermanson tells them things about my client, I'm
23 assuming. I haven't seen the full interview. I've gotten a summary
24 of it, but not the full interview.

25 Because in March, the Government then, on six different

1 occasions -- five or six different occasions -- and there are 302
2 reports about it -- drive by my client's home to ensure that there's
3 nothing amiss.

4 They take down the license plates of the cars there.
5 Nothing is apparently amiss because no other reports are done.

6 I'll note also that in September of 2020 before the
7 arrests are commenced, the Government is aware of my client. It has
8 been aware since July of 2020 and the Government -- there are 302
9 reports regarding the use of a pole camera outside my client's home.

10 That is proposed by one of the Federal agents and I'm not
11 sure exactly where. A technical -- I forget -- TTA, technical agent
12 is consulted about that. There's some discussion about that.
13 Apparently the lighting conditions are not great in that area. So
14 for whatever -- and I don't know whether there are other decisions
15 about resources and money. We're in the middle of COVID; but in any
16 case, a pole camera is not installed.

17 I say that because the Government has, as you're well
18 aware, many different mechanisms to observe somebody and watch
19 somebody. One is contemplated, but to the extent they think my
20 client is out there secreting weapons, burying weapons, stalking
21 protests or power stations, the Government has the ability to do
22 some of the things necessary to bring the evidence to court here and
23 doesn't do -- just doesn't do it.

24 So my client, I'll let you know, is arrested on -- his
25 mom is present during the October 20th arrest by State Police, who

1 are, of course, informed about the potential existence of a firearm
2 that may violate New Jersey state law.

3 On, I think it's June 26th, your Honor, of 2021, in
4 response to the Government's superseding indictment, which is
5 returned, I think, on June 6th or in early June, an arrest warrant
6 goes out and the FBI comes at about 8:45 in the morning. The reason
7 why I know that, your Honor, is not only from -- I haven't gotten
8 all the reports yet, but there's a Ring video that my client's
9 family has -- and I can play it for the Court -- but essentially it
10 shows FBI coming to the door, my client coming out with his hands up
11 and walking backward. So you've already heard in my filing about
12 the nature with which he surrenders.

13 And so what I would indicate to the Court is that this
14 pattern, this evidence, shows that the Government was surveilling
15 him at certain points. Had the ability and clearly understood the
16 ability to fairly cheaply -- I don't want to say what a pole camera
17 costs -- but to put up a pole camera and watch the home. None of
18 that was -- well, some of that was done; but nothing indicates at
19 all that he did anything wrong in the period after October 20th,
20 I'll just say that, and we'll contest the other at trial.

21 On January 9th my client is informed -- and there was
22 some intimation that he may have been at the initial detention
23 hearing in front of Judge Jones -- that my client was to go to
24 Washington D.C. potentially as part of the coverage of -- or
25 protection of the counting or inauguration or what have you.

1 In fact, my client is actually -- and had volunteered or
2 decided as part of his service, to go to the vaccination center and
3 assist in the vaccination of his fellow citizens.

4 That's actually terminated about two weeks into that
5 essentially deployment to the vaccination center because now the
6 Army National Guard has heard about this and they're beginning the
7 process of removing him from the military.

8 He contacts, on January 9th, the FBI agent -- and this is
9 on Bates Exhibit 11387. He called them and talked to Agent Franheim
10 about this issue of, hey, why have I been separated from the
11 military? What's going on? I'm not sure exactly what was going
12 through his mind. Maybe he thought the case was over and now he
13 doesn't know what's going on.

14 So he calls them and he says -- he just wanted some
15 answers about what's going on with his case. And then he says -- he
16 asks for his phone back. I think that's important for two points.
17 He's doing the appropriate thing of calling the FBI and trying to
18 get his property back, but, you know, it indicates that the
19 Government has had his phone since roughly October and he's told
20 that he could have the phone back when the processing was done.

21 The reason why that's important, your Honor, is because
22 we've been told a lot about what this agent has seen or heard from
23 people that might be on -- or that this agent has seen on phones and
24 yet I don't -- except for the seven or eight exhibits, there's
25 nothing in here that the officer or the agent has told us about him

1 plotting to go to a power facility, to bomb a power facility or --
2 it is -- well, I would prefer a client not say anything at all in
3 relation to firearms on chats or anywhere else, but this is what
4 they have at this stage.

5 So we have renditions from the agent about what is said
6 and the agent having had his phone since October, and at least
7 processing since January, hasn't provided us with the evidence here
8 in court.

9 But finally, Mr. Maurino asks Special Agent Franheim if
10 there are any questions he wanted to ask Mr. Maurino since he was on
11 the phone. So he makes another effort, probably against his -- a
12 good attorney's advice, but he makes another effort to volunteer
13 information. And I say that again because we've heard a bit about
14 this operational security issue and about how my client is
15 supposedly some kind of serious plotter against the Government and
16 how he's exercising these carefully-laid plans for operational
17 security and here he is volunteering and talking to the Government
18 and providing them with information that anybody who was caring
19 about operational security would not provide.

20 So that's kind of where we are in terms of the
21 Government -- the Government's evidence or about -- or evidence
22 about my client's conduct.

23 You've seen some of the evidence -- and I'll stand now
24 since I'm no longer looking at these documents. You've seen some of
25 the evidence that we -- that we filed as exhibits regarding the

1 DD214 and the conduct overseas and the good behavior otherwise and
2 the medal that he received for the tactical training.

3 And now I'm getting into argument, which I probably
4 should hold off on; but we are in the process where -- we're in the
5 position where the Government argues that evidence that it has is
6 evidence of my client's bad conduct. Evidence that it does not have
7 it says is evidence of my client's supposed operational security.

8 And supposedly there are all these weapons out there --
9 and I get the Biggie Smalls' lyric has been essentially acknowledged
10 by the Court for what it is -- but that -- that throws into doubt
11 the characterizations that the Government has made about what my
12 client's real intent was even before October 20th, 2020. Because if
13 the Government can't distinguish -- and frankly, your Honor, I filed
14 that and it was the very top of the motion that I filed for a
15 detention hearing where I laid out where that lyric came from.

16 If the Government can't distinguish those things and the
17 agent can't distinguish those things, then we're in a difficult --
18 I'm -- it's a moving target about what I'm fighting here, your
19 Honor.

20 And I don't want to overextend my argument so --

21 THE COURT: I'll tell you -- all right. Let's figure out
22 anything that you need to -- you think that you need to ask this
23 agent --

24 MR. CHETSON: Yes, sir.

25 THE COURT: -- let's -- I'll give you 5 minutes. Ask him

1 anything you think you need to ask and we'll go to argument.

2 MR. CHETSON: Thank you, your Honor.

3 **CROSS-EXAMINATION**

4 BY MR. CHETSON:

5 Q. Just -- Agent, you --

6 MR. CHETSON: One second. Let me check with my --

7 (Attorney Chetson conferring with the defendant at counsel table
8 briefly off the record)

9 Q. (By Mr. Chetson) You're aware my client, after being
10 separated from the Army National Guard, turned in -- and his brother
11 assisted in turning in -- all of the equipment that he had been
12 assigned by the Army National Guard. Are you aware of that?

13 A. I'm not aware of that, but I know that's required when
14 you're separated.

15 Q. You have no reason to doubt that he, in fact, was in the
16 process or had already turned in all of the equipment that he had
17 been assigned by the Army National Guard?

18 A. At what point?

19 Q. Soon -- within weeks after being discharged from the
20 military?

21 A. I'm not aware -- I mean, I know that's common practice
22 when you're discharged is to -- and I'm not doubting that it
23 happened after his discharge. I just don't -- I don't know.

24 Q. When did you interview Mr. Womack?

25 A. Mr. Womack was interviewed by NCIS on October 20th, but

1 it was not myself.

2 Q. Okay. And when was Mr. Zacharek interviewed?

3 A. Again, I believe Mr. Zacharek was interviewed on -- on or
4 about October 20th initially and then also came here for Grand Jury.

5 Q. When -- for which Grand Jury, the superseding or the
6 third superseding?

7 A. It was not this most recent. It was -- it would have
8 been -- I believe it was last November.

9 Q. Okay. The November...

10 MR. CHETSON: Your Honor, honestly I have no more
11 questions.

12 THE COURT: Ms. Kocher, redirect.

13 **REDIRECT EXAMINATION**

14 BY MS. KOCHER:

15 Q. Just to make clear, it's true, Agent Little, that Mr.
16 Womack, Mr. Zacharek and Mr. Hermanson were interviewed more than
17 once; is that correct?

18 A. That's correct.

19 Q. And you've just stated their first interview date?

20 A. Yes.

21 Q. Okay.

22 MR. CHETSON: When was the last time they were
23 interviewed?

24 THE WITNESS: I don't recall the exact dates of the last
25 interview.

1 MR. CHETSON: Do you know the month?

2 THE WITNESS: I mean, I was able to speak with Mr.
3 Hermanson today.

4 THE COURT: He was here for the superseding indictment --

5 THE WITNESS: Yes.

6 THE COURT: -- the third superseding.

7 MR. CHETSON: Okay. All right. No further questions.

8 THE COURT: I have one question in that regard. The
9 United States became aware that this defendant was Bishop as far
10 back as October of last year?

11 THE WITNESS: Yes.

12 THE COURT: And he was aware that they knew he was Bishop
13 as far back as October of last year?

14 MR. CHETSON: Yes. He told them, your Honor.

15 MS. KOCHER: I want to clarify, the Government knew Mr.
16 Maurino was Bishop long before October of 2020.

17 MR. CHETSON: Okay.

18 MS. KOCHER: If that was your question is, how early.

19 THE COURT: Okay. But the -- he was arrested. At the
20 time he was arrested, he talked. He told them he was Bishop. And
21 I'm trying to figure out when the United States knows that he's
22 aware that the United States knows he's Bishop. That's what I'm
23 trying to find out.

24 MS. KOCHER: Yes. That...

25 MR. CHETSON: Yes.

1 THE COURT: Would that be -- is there any reason to doubt
2 the proffer from the defense, that he told them he was -- or
3 admitted to being Bishop as far back as his first interview with the
4 FBI?

5 THE WITNESS: I have no reason to dispute that that's
6 what he said --

7 THE COURT: Okay.

8 THE WITNESS: -- as far as being Bishop. As far as the
9 other things he alleged in that initial interaction, I don't know
10 that all of that was accurate.

11 THE COURT: Okay. Fair enough. I'm trying to get a
12 sense of how long he's been at liberty with the United States being
13 aware that -- being aware what the United States knows about this
14 group and he's at least been at liberty since the first indictment
15 was handed down and the other members of this group were arrested.
16 And with an awareness at that time that they knew -- the United
17 States knew he was Bishop; is that correct?

18 MR. CHETSON: Yes, your Honor. If you're asking, it's --
19 it's Bates number 8004245 is the exact page. It is a 10/23/2020 FBI
20 302 and it's a three-page 302 and on the second page of the 302 and
21 that exact Bates number, it says, Maurino knew the names Liam
22 Collins and Paul Kryscuk. Maurino was aware Collins and Kryscuk
23 used the Wire app. Maurino also used the Wire app and identified
24 his user name as Bishop. And he is informed during the same
25 interview and is aware then of the fact that the others had been at

1 that point arrested or detained.

2 And I will also proffer that none of these other -- the
3 AP reporter, the governors, were all given duty to warn
4 notifications by the FBI according to the 302s that I received after
5 they became aware of what Mr. Kryscuk had on his list; and they were
6 all aware -- and I have not -- I have no indication that any of them
7 had reported any threat of harassment at all by my client.

8 THE COURT: All right. Mr. Chetson, I read your filing.
9 I understand the position.

10 Ms. Kocher, I'm going to tell you, this Court is inclined
11 to release this defendant on a monitor.

12 I'm going to allow you to make an argument against that
13 right now.

14 MS. KOCHER: I appreciate that, your Honor; and I would
15 also note that that would not be the first time in this hearing that
16 that signal has come toward the Government.

17 The Government's position is that the fact that the
18 defendant has not violated to date is not the end-all of the
19 considerations. He is now facing a maximum of 25 years total.

20 That had -- I understand the relevance of the Court's
21 consideration that he knew he was -- that he admitted he was Bishop
22 and he understood as of October 23rd that he might be a target of
23 government investigation, but it did not come home to him. I
24 suspect it did not come home to him until he began his transport to
25 North Carolina when he actually was in custody for some period of

1 time.

2 He is now facing a 25-year maximum on these sentences.
3 The Government continued, as was noted by defense, to monitor as
4 best it could by keeping some level of surveillance up, considering
5 other types of investigative possibilities, like a pole cam, which
6 technologically could not be undertaken at that point in time. And
7 given that level of interest, indicted as soon as could happen with
8 the review of the phone.

9 It was the phone content that you've heard about, that
10 is, the exchange with the sale of Kryscuk's weapons to two other
11 people in New Jersey that solidify his role in that gun conspiracy.
12 Your Honor is well aware there is not a civil rights count in this
13 indictment as of yet, which from the beginning, Mr. Maurino clearly
14 would have fit in. So we were, frankly, limited. The indictment is
15 very limited. And it was only upon that information coming from the
16 phone that allowed Mr. Maurino to be added as a defendant.

17 I can't speak to what Mr. Maurino was thinking, whether
18 he thought he was clear, whether he was going to lay low, whether he
19 was going to live his social interactions -- like learning to be
20 liked by people that should hate you -- whether it was just more
21 experiential learning for him in that regard.

22 His mom did testify that one of her best friends is a
23 Holocaust survivor, presumably Jewish, at the last hearing and said
24 Mr. Maurino has no problem with Jewish people; and that clearly the
25 words that Mr. Maurino used here certainly are not a member of any

1 -- not lyrics from a rap song where he describes the needed ability
2 to learn how to blend in. And, as testified today, the very fact
3 that he blended in even while serving his country in Qatar,
4 continuing his relationship, continuing on the Wire chat and
5 continuing contact, particularly with Mr. Kryscuk, is all evidence
6 of that.

7 In the end, your Honor, the Government does believe that
8 there's a risk of danger generally to the community and yet a risk
9 of flight by this defendant despite his uncontested -- we have no
10 evidence to show and I've not put on evidence and am not arguing
11 that there was any violation of his release conditions; but, your
12 Honor, it's a New Jersey law. It was a state law. He had not even
13 had, to my understanding, an arraignment on that charge yet. The
14 hearings -- so I may be wrong?

15 MR. CHETSON: No, I'm -- sorry.

16 THE COURT: It's her turn.

17 MS. KOCHER: The pretrial release report fashioned would
18 indicate, in regard to his criminal history, that is nothing in --
19 compared to what he is now presented with.

20 And it is true that the Signal chat group, the two
21 members -- the two persons to whom he apparently sold these guns of
22 Kryscuk, at least exchanged moneys for them. That, I think, was all
23 going down in August, September. The Government does not have
24 evidence before you that the guns were actually shipped from Kryscuk
25 to the east. So I don't know if those guns were manufactured and

1 handed on as was testified to today. We don't have those lower
2 receivers. We don't know where they are, but that's two people
3 that's out.

4 Then we have the members of the Signal chat that are part
5 of Exhibit 8 that are potentially out. I can't speak to what's been
6 happening. As your Honor may have gathered, our evidence -- we
7 don't have a confidential human source in. We never did. Our
8 evidence has come from the defendants' own words and their own chats
9 that they screen shot, despite the operational security which they
10 believed they were practicing.

11 And, your Honor, I would note that in regard to
12 operational security and his talking with the FBI, the Government's
13 position would be that's more of trying to be likable, to learn what
14 he can about what's happening with the investigation and to give
15 what information he may, not so much that he was wide open.

16 In fact, the agent's response was he would be more than
17 happy to talk with him, but he needed to meet in person. And it was
18 that to which Mr. Maurino denied at that point. He didn't want to
19 meet with the FBI.

20 In essence, your Honor, the Government argues what it did
21 argue before Judge Jones last week and that is there is, despite the
22 compliance with the state conditions, the current charges have
23 changed the landscape too much. There are both victim targets out
24 as well as co-conspirators that are not in custody, to include TC;
25 and the risk of danger, particularly in a rebuttable presumption

1 case, is not adequately countered by the presence of electronic
2 monitoring.

3 THE COURT: Is TC charged?

4 MS. KOCHER: TC has not been charged, your Honor -- he
5 has state proceedings in that district and I -- is it Maine?

6 MR. CHETSON: Rhode Island.

7 MS. KOCHER: I apologize. It is Rhode Island. He has
8 state proceedings against him there.

9 THE COURT: Thank you, Ms. Kocher.

10 Mr. Chetson.

11 MR. CHETSON: So I'll just limit my argument to a few --
12 couple of things.

13 THE COURT: You're winning.

14 MR. CHETSON: Okay. The only issue I'll say, in state
15 court in North Carolina you're not arraigned until the moment you go
16 either plea in and take your plea and get sentenced -- we don't have
17 the three-month PSR process -- or until you stand before a jury
18 coming into the room. So the status of the New Jersey case I
19 couldn't say, but he's appeared.

20 THE COURT: All right. All right. This Court's going to
21 set conditions of release.

22 The basis for the difference between this defendant and
23 the other defendants is this defendant's been aware of the ongoing
24 Federal investigation for the entire time. It is apparent to the
25 Court, pursuant to Title 18, United States Code, Section 3142 --

1 THE COURT: You can return to your seat. Sorry.

2 (Witness Excused)

3 THE COURT: We've had you trapped up here.

4 This Court can fashion conditions of release which will
5 ensure the appearance of the defendant and the safety of the
6 community.

7 The defendant's mother was proffered at the prior hearing
8 as an adequate third-party custodian.

9 This Court's going to order this defendant be released on
10 home detention -- I'm sorry, on home incarceration. That's a
11 24-hour-a-day lockdown at your residence except for medical
12 necessities, other court appearances and other activities
13 specifically approved by the Court.

14 Now, you'll have the opportunity to make appropriate
15 motion to this Court for things like work, your voluntary
16 activities, anything else that you need to do.

17 The behavior that's been described in the charges in the
18 indictment is particularly troubling; and the issue is that there's
19 been no evidence since this defendant became aware of the federal
20 charges, of all the other participants in this activity, of his
21 behavior -- that the United States was aware of his behavior; that
22 the United States knew who Bishop was; that the United States knew
23 that he was a participant in the Wire; and that the United States
24 was investigating him.

25 The one significant change since that has been the new

1 charge that was handed down today, which does significantly alter
2 the exposure from a five-year exposure to a 25-year exposure.

3 The Court also notes that no one is going to be more
4 motivated than this defendant to think about the appropriate degree
5 of cooperation and the extent to which he can prejudice his case by
6 any behavior that violates the law.

7 I'm going to order -- it's ordered that the defendant's
8 release is subject to the following conditions:

9 Defendant must not violate federal, state or local law
10 while on release. Defendant must cooperate in the collection of a
11 DNA sample as authorized by 34, United States Code, Section 4070(2).

12 Defendant must advise the Court or the pretrial services
13 office or supervising officer in writing before making any change of
14 residence or telephone number.

15 The defendant must appear in court as required; and if
16 convicted, must surrender as directed to serve the sentence the
17 court may impose.

18 The defendant will be notified of his next appearance.

19 It is further ordered the defendant is placed in the
20 custody of Cynthia Maurino, who agrees to supervise the defendant,
21 use every effort to assure the defendant's appearance at all court
22 proceedings and notify the court immediately if the defendant
23 violates a condition of release or is no longer in the custodian's
24 custody.

25 The Court accepts all of those proffers that were made

1 before Judge Jones.

2 The defendant must submit to supervision by and report
3 for supervision to the New Jersey Pretrial Services. Telephone
4 number 609-989-2056.

5 Surrender any passport to the United States Probation
6 Office; not obtain a passport or other international travel
7 document; not possess a firearm, destructive device or any other
8 weapon.

9 Participate in the following location restriction program
10 and comply with its requirements as directed:

11 Home incarceration. Restricted to 24-hour-a-day lockdown
12 at your residence except for medical necessities and court
13 appearances or other activities specifically approved by the Court.

14 You must submit to the following location-monitoring
15 technology and comply with its requirement as directed. That's a
16 radio frequency monitor. And report as soon as possible to the
17 pretrial services or supervising officer every contact with law
18 enforcement personnel, including arrests, questioning or traffic
19 stops.

20 The Court's also going to add the condition that the
21 defendant not have unmonitored access to the Internet.

22 Ms. Maurino, do you have the capacity to monitor your
23 son's access to the Internet and any devices, such as Wire or other
24 chat devices?

25 MS. MAURINO: Yes, your Honor.

1 THE COURT: This Court's going to order he not access the
2 Internet for any reason and not have access to any such devices
3 unmonitored.

4 So I understand in the 21st Century you have to be able
5 to do some business to succeed and so with the permission of the
6 probation office, any appropriate Internet use can be constructed
7 such that in the 21st Century, that is monitored access.

8 Yes, ma'am.

9 MS. MAURINO: May I speak, your Honor?

10 THE COURT: You may.

11 MS. MAURINO: If my son would like to attend college --
12 that's what he was doing up until June -- may he attend online
13 classes and go to school?

14 THE COURT: Yes. That will be a permitted activity --
15 continued access to an ongoing course of college is going to be a
16 permitted activity by the Court. I'll add that as a permitted
17 activity and order the probation office that that be deemed a
18 permitted activity.

19 MR. CHETSON: Your Honor, and to meet with counsel.
20 Because I will be able to do that by zoom and so forth.

21 THE COURT: Any technology necessary to facilitate
22 participation in the conduct of his defense will be permissible.

23 The defendant is ordered not to contact any of his
24 co-defendants or any other people charged in this case except in the
25 presence of, and under the supervision of defense counsel. I

1 understand there's a possibility such conversations may be
2 necessary.

3 Mr. Maurino, you're advised of the following penalties
4 and sanctions:

5 Violating any of the foregoing conditions of release may
6 result in the immediate issuance of a warrant for your arrest, a
7 revocation of your release, an order of detention, a forfeiture of
8 any bond and a prosecution for contempt of court can result in
9 imprisonment, a fine, or both.

10 While on release, if you commit a federal felony offense,
11 the punishment is an additional prison term of not more than ten
12 years; and for a federal misdemeanor offense, the punishment is an
13 additional prison term of not more than one year. The sentence will
14 be consecutive, that is in addition to any other sentence you
15 receive.

16 It is a crime punishable by up to ten years in prison, a
17 \$250,000 fine or both to obstruct a criminal investigation, tamper
18 with a witness, victim or informant, retaliate or attempt to
19 retaliate against a witness, victim or informant or intimidate or
20 attempt to intimidate a witness, victim, juror, informant or officer
21 of the court.

22 The penalties for tampering, retaliation or intimidation
23 are significantly more serious if they involve a killing or
24 attempted killing.

25 If after release, you knowingly fail to appear as the

1 conditions of release require, or to surrender to serve a sentence,
2 you may be prosecuted for failing to appear or surrender and
3 additional punishment may be imposed.

4 If you're convicted of an offense punishable by death,
5 life imprisonment or imprisonment for a term of 15 years or more,
6 you'll be fined not more than \$250,000 or imprisoned for not more
7 than ten years or both.

8 An offense punishable by imprisonment for a term of five
9 years or more, but less than 15 years, you will be fined not more
10 than \$250,000 or imprisoned for not more than five years or both.

11 Any other felony, you'll be fined not more than \$250,000
12 or imprisoned for not more than two years or both.

13 A misdemeanor, you'll be fined not more than \$100,000 or
14 imprisoned not more than one year or both.

15 A term of imprisonment imposed for failure to appear or
16 surrender will be consecutive to any other sentence you receive.

17 In addition, a failure to appear or surrender may result
18 in the forfeiture of any bond posted.

19 THE CLERK: I'm going to print out a new one with the
20 additional --

21 PROBATION OFFICER WASER: Your Honor, we would just ask
22 if the order could be saved for his return to New Jersey, for them
23 to install the equipment there.

24 THE COURT: Okay.

25 PROBATION OFFICER WASER: Thank you.

1 MS. KOCHER: Your Honor, I'm wondering if you would
2 consider -- I heard no contact with co-defendants. Could you
3 specifically include there, cooperating witnesses certainly --

4 THE COURT: I think I did. Any other potential
5 participants in the scheme --

6 MS. KOCHER: I'm sorry. I heard others charged.

7 THE COURT: -- so I consider that any other cooperate --
8 and he can potentially talk with witnesses if they're being
9 interviewed in the presence of defense counsel and only under those
10 circumstances for the purposes of preparing his defense.

11 MS. KOCHER: All right, sir. And I presume, but did not
12 hear, no firearms.

13 THE COURT: It was stated.

14 MS. KOCHER: Thank you, sir.

15 THE CLERK: Do you want to add --

16 MS. KOCHER: I would note, your Honor, that Mrs. Maurino
17 was unaware that the defendant had the lower receiver that was
18 recovered from the home, and I do have concerns; but I leave it to
19 the Court as to whether there are currently any firearms that might
20 be secreted in the home.

21 THE COURT: The Court's also going to order a probation
22 search of the premises before the defendant returns to that
23 premises.

24 MS. KOCHER: Thank you, sir.

25 THE COURT: Mr. Chetson.

1 MR. CHETSON: I was going to approach to get a copy of
2 that.

3 THE COURT: Please do.

4 THE CLERK: We're trying to get an updated one.

5 THE COURT: We'll get that signed.

6 Thank you everybody for indulging the late hour.

7 MS. KOCHER: Thank you, sir.

8 MR. CHETSON: Your Honor, with respect to the search of
9 the home, I want to let the Court know that my client's mother, Ms.
10 Maurino, located the ceramic plates over the weekend.

11 What I did was, I had her consult with an attorney of her
12 own to find out how those could be turned over to the FBI. She was
13 in the process of that, but because a search is coming, I wanted to
14 ensure that that process went forward; but now that there's going to
15 be a search, I did not want the Court to think that I, in any way,
16 was trying to hide evidence. I was making sure it was turned over
17 in a lawful manner to the Government.

18 Thank you.

19 THE COURT: Okay. I'll take that as understood.

20 MR. CHETSON: Thank you.

21 THE COURT: Mr. Maurino, this Court's taking a risk on
22 you in part because of your history of service to this country. I
23 hope that my faith in you is going to be treated appropriately and
24 that you will meet all your obligations.

25 THE DEFENDANT: I will, your Honor.

1 THE COURT: All right. Anything further from the
2 prosecution?

3 MS. KOCHER: No, sir.

4 THE COURT: Anything further from the defense?

5 MR. CHETSON: No, your Honor.

6 THE COURT: All right. We'll be in recess.

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9 (Hearing concluding at 5:36 p.m.)
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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA

3
4 CERTIFICATE OF OFFICIAL REPORTER

5
6 I, Michelle A. McGirr, RPR, CRR, CRC, RMR, Federal
7 Official Court Reporter, in and for the United States District Court
8 for the Eastern District of North Carolina, do hereby certify that
9 pursuant to Section 753, Title 28, United States Code, that the
10 foregoing is a true and accurate transcript of my stenographically
11 reported proceedings held in the above-entitled matter and that the
12 transcript page format is in conformance with the regulations of the
13 Judicial Conference of the United States.

14
15 Dated this 12th day of October, 2021

16
17 /s/ Michelle A. McGirr
18 MICHELLE A. MCGIRR
19 RPR, CRR, CRC, RMR
20 U.S. Official Court Reporter
21
22
23
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25