

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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1)	
2)	
3	UNITED STATES OF AMERICA,)	Criminal Action
4)	No. 22-00015
5	Plaintiff,)	
6)	
7	vs.)	AFTERNOON SESSION
8)	
9	ELMER STEWART RHODES, III,)	Washington, D.C.
10	et al.,)	October 13, 2022
11)	
12	Defendants.)	1:42 p.m.
13)	
14	* * * * *)	

TRANSCRIPT OF JURY TRIAL - DAY 10
BEFORE THE HONORABLE AMIT P. MEHTA,
UNITED STATES DISTRICT JUDGE

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I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Red.</u>
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WITNESSES FOR THE GOVERNMENT:

Kelsey Harris	3178		
	3184		
	3216		3236
Craig S. Arney	3248		3268
Jennifer Banks	3270		

EXHIBITS RECEIVED IN EVIDENCEPAGE

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1 THE COURT: Please be seated, everyone.

2 I think everybody was advised -- hopefully
3 everybody was advised of this by J.C. The juror in Seat 7
4 just expressed a concern about, when the guns are displayed,
5 to not have them sort of pointing toward the jury. And so
6 I'd just ask the Government to make sure its witnesses, if
7 there are additional guns to be displayed, that they be
8 mindful of that.

9 MS. RAKOCZY: Yes, your Honor. We apologize for
10 that. Thank you.

11 THE COURT: That's fine.

12 THE COURTROOM DEPUTY: Jury panel.

13 (Whereupon, the jury entered the courtroom at 1:47
14 p.m. and the following proceedings were had:)

15 THE COURT: Please be seated, everyone. Welcome
16 back, ladies and gentlemen. I hope everybody had a nice
17 lunch break.

18 Agent Harris, why don't you come on back up.

19 Mr. Fischer, you can continue with Agent Harris's
20 cross-examination.

21 (Agent Harris retakes the stand.)

22 MR. FISCHER: If the Court please. Thank you.

23 CROSS-EXAMINATION

24 BY MR. FISCHER:

25 Q. Agent, I guess my first question is: At the lunch

1 break, did you go over your testimony or any possible
2 questions that I might ask you with any of these folks here
3 at the table?

4 A. I did not.

5 Q. Okay. Did they ask you or give you any sample questions
6 that I might ask?

7 A. No, sir.

8 Q. Okay. Sir, we were talking -- when we went for the
9 break, we were talking about several questions that you had
10 forwarded to the Portland office regarding an investigation
11 into Mr. Cummings. That is correct?

12 A. That's correct.

13 Q. Sir, a question for you: I know you wrote a report that
14 contained a list of questions. Were those questions
15 originally written by you or were those questions that were
16 part of the team that got forwarded over to you?

17 A. I'm sorry. Can you ask that again?

18 Q. Fair enough.

19 So the 15 or so questions in your report, I know
20 they're listed in your report that got forwarded to the
21 Portland office of the FBI. So my question is: Did you
22 personally author or write those questions yourself or were
23 those standard questions that were sent over to you from a
24 different FBI agent or office?

25 A. I don't recall. I don't recall if someone forwarded --

1 if I discussed, you know, what questions would need to be
2 asked with anyone. But I do know I drafted that whole 1057
3 and wrote out those questions on that 1057.

4 But I don't recall if I discussed that with anyone
5 else prior to compiling those questions or if anything
6 needed -- else to be asked of Mr. Cummings.

7 Q. Okay. And I know a few times you've indicated --
8 obviously, you're located down in Florida. But certainly,
9 sir, you've had numerous contacts, either by Webex meetings,
10 Zoom, telephone, email, with other agents across the country
11 regarding this case. Is that fair to say?

12 A. Not really. I've had, you know, contacts with a couple
13 of the agents that were here in D.C. regarding the case if
14 anything came up pertaining to Mr. Harrelson or if we had
15 anything that could help the overall broad investigation.

16 But no, not necessarily agents all over the
17 country.

18 Q. Okay. And, sir, when did you get specifically assigned
19 to the conspiracy unit? I'm not holding you to a date,
20 obviously. But approximately when did you get assigned to
21 the conspiracy unit?

22 A. I came and joined this unit in August of this year.

23 Q. In August of this year --

24 A. Yes, sir.

25 Q. -- is that correct?

1 Okay. And so the unit you were originally on was
2 not titled anything regarding conspiracy. Correct?

3 A. Correct. I wasn't on a unit related to the overall
4 conspiracy case.

5 Q. And, sir, you would agree that -- well, I'm going to go
6 back here a second.

7 Mr. Cummings, who testified yesterday, I believe
8 you answered you had interviewed him at least a couple of
9 times back in 2021. Is that fair to say?

10 A. Yes, sir.

11 Q. Okay. And in fact, the last time I believe you
12 interviewed him, as far as the year 2021, I believe it was
13 in mid-or late November of 2021. You had an interview on
14 Webex where Mr. Cummings was in Portland with other agents.
15 Is that fair to say?

16 A. Yes. That sounds about correct.

17 Q. Okay. And on that interview with Mr. Cummings, I
18 believe Mr. Nestler, the assistant U.S. attorney here, was
19 on that as well. Is that correct?

20 A. I believe so.

21 Q. Okay. And so subsequent to Mr. Cummings providing
22 information to the FBI and to Mr. Nestler, you're aware that
23 just shortly thereafter, January 12th of 2022, the
24 Government indicted these Defendants on the charges that are
25 before the Court today. Are you aware of that?

1 MR. MANZO: Objection. Relevance.

2 THE COURT: I'll allow it. If he knows.

3 BY MR. FISCHER:

4 Q. You're aware that there was a subsequent indictment
5 in -- on January 12th of 2022?

6 A. Yes.

7 Q. And, sir, were you aware -- I'll go back to
8 Mr. Caldwell. Are you aware that Mr. Caldwell has been
9 continuously charged since January 17th of 2021 until today?
10 Were you aware of that?

11 A. No, sir.

12 Q. Okay. Sir, you brought up the name Holden Haney. I
13 think that was in one of the Government's exhibits.
14 Correct?

15 A. Correct.

16 Q. That's a subject of the FBI investigation. Is that fair
17 to say?

18 A. I don't know if he's a subject -- named subject in his
19 own investigative file or not. But throughout watching that
20 video, you know, I just obtained identities of people that
21 were in the video just for, you know, thoroughness review.

22 Q. And I apologize, because I'm using FBI-speak when I
23 say -- I didn't mean to use FBI-speak.

24 When I say he was a subject, he's somebody that
25 the FBI has looked at, or has at least looked into. Is that

1 fair to say?

2 A. I believe so. I haven't investigated Mr. Haney at all.
3 But I just know of his identity just through his picture in
4 that video.

5 Q. Okay. The Government brought up numerous times there
6 were messages regarding the American Revolution.

7 Do you remember those messages?

8 A. Yes, sir.

9 Q. Sir, certainly you're aware -- I mean, we were talking
10 about history. But the American Revolution started when the
11 British went out to go after colonists. Are you aware of
12 that?

13 A. I'm not a historian. But I'll take your word for it if
14 you have that knowledge.

15 Q. Well, and the colonists confronted the British when they
16 came out. Correct? Do you know that?

17 A. I do not.

18 Q. That's fair enough, sir.

19 But you certainly would agree, no matter what,
20 sir -- you're certainly aware that Lexington and Concord,
21 you've heard of those two battles of the American
22 Revolutionary War?

23 A. Yes, sir, I have.

24 Q. You'd certainly agree that the colonists, when they --
25 when the British came after them, that the colonists didn't

1 store their firearms 20 or 30 minutes away in a hotel.

2 Correct?

3 A. I do not know that. I don't.

4 MR. FISCHER: Your Honor, I have nothing else.

5 Sir, thank you.

6 THE WITNESS: Thank you.

7 THE COURT: Mr. Crisp?

8 MR. CRISP: No. Thank you, your Honor.

9 THE COURT: Ms. Woodward? Ms. Haller?

10 MR. WOODWARD: Yeah.

11 CROSS-EXAMINATION

12 BY MR. WOODWARD:

13 Q. Sir, Stanley Woodward. Thank you so much for your time
14 and for being here today. I represent Kelly Meggs --

15 A. Nice to meet you.

16 Q. -- along with my colleague, Juli Haller.

17 I'd like to start --

18 MR. WOODWARD: This is just us, J.C.?

19 THE COURTROOM DEPUTY: Yes.

20 BY MR. WOODWARD:

21 Q. I'd like to start with the complete video.

22 (Technical difficulties with the audiovisual
23 equipment.)

24 MR. WOODWARD: My apologies, ladies and gentlemen.

25 Here we go.

1 BY MR. WOODWARD:

2 Q. This is Government's Exhibit 4802.1.

3 MR. WOODWARD: Did you admit -- did the Government
4 admit all of 4802 or just 4802.2?

5 BY MR. WOODWARD:

6 Q. Well, let's look at it, sir. If you could just --

7 MR. MANZO: We're happy to admit the whole thing.

8 THE COURT: I think -- 4802.1 will be admitted if
9 it hasn't been already.

10 (Whereupon, Government's Exhibit No. 4802.1 was
11 entered into evidence.)

12 (Whereupon, segments of Government's Exhibit No.
13 4802.1 were published in open court.)

14 MR. WOODWARD: Do I have the volume?

15 THE COURTROOM DEPUTY: Pause it for a second.
16 There should be a cable for the audio.

17 (Whereupon, segments of Government's Exhibit No.
18 4802.1 were published in open court.)

19 BY MR. WOODWARD:

20 Q. This is about where you picked up in the video that you
21 played for the jury yesterday. Correct?

22 MR. MANZO: Objection, your Honor.

23 THE COURT: He can answer. But --

24 BY MR. WOODWARD:

25 Q. If you know.

1 A. No. I don't believe we picked up there. I believe we
2 ended the video there. I believe it was a two-minute clip.

3 Q. Excuse me. This is about where you ended the video.

4 (Whereupon, segments of Government's Exhibit No.
5 4802.1 were published in open court.)

6 BY MR. WOODWARD:

7 Q. Now, Agent, you testified that you reviewed that video.
8 Correct?

9 A. Yes, sir.

10 Q. And if you could just listen carefully to what's being
11 said at the start of the video.

12 MR. WOODWARD: I've lost the sound.

13 THE COURTROOM DEPUTY: Turn the volume up that's
14 connected on the other setting. Turn that up a little bit.

15 MR. WOODWARD: Technology. It allows us to do
16 these things.

17 (Whereupon, segments of Government's Exhibit No.
18 4802.1 were published in open court.)

19 BY MR. WOODWARD:

20 Q. Can you hear that, Agent? Maybe it will save us a
21 little bit of trouble.

22 A. I can hear it.

23 (Whereupon, segments of Government's Exhibit No.
24 4802.1 were published in open court.)

25

1 BY MR. WOODWARD:

2 Q. What did he say just there?

3 A. "To stop a threat."

4 Q. You disagree -- did you have a chance to watch this
5 video, both now and in your investigation?

6 A. I've watched the entire video.

7 Q. And you've listened to what this gentleman, Andrew --

8 A. Smrecek, I believe.

9 Q. -- Smrecek, what he says in the video.

10 Did you listen to what Mr. Smrecek said in the
11 video?

12 A. Yes.

13 Q. And do you disagree with anything he said in the video?

14 A. In what regards? You know, the --

15 Q. Any regards.

16 A. -- video is about six minutes long. What part?

17 Q. I played all of this intentionally. Is there anything
18 in this video that you disagree with as far as the
19 instruction that he's giving?

20 MR. MANZO: Objection as to relevance. It's
21 calling for an opinion of the agent.

22 THE COURT: I'll allow it. It's
23 cross-examination.

24 Go ahead.

25 THE WITNESS: I was just going to say, you know, I

1 don't want to offer an opinion on whether I think the
2 technical instruction he's providing is good or bad
3 instruction. So it's not the same instruction I've received
4 as an FBI agent at the FBI Academy when it comes to shooting
5 and tactics. So I don't want to, you know, offer an opinion
6 on if I think his instruction is good or bad that he's
7 providing to the people that are in that class.

8 BY MR. WOODWARD:

9 Q. Okay. Fair enough.

10 Where did you obtain this video?

11 A. This video was provided in a business record return.

12 Q. And you reviewed the return?

13 A. Yes.

14 Q. All of the files that you received in the return?

15 A. I believe so. There were emails and receipts and
16 liability waivers in those returns.

17 MR. WOODWARD: If we could publish my screen just
18 for the witness, please.

19 BY MR. WOODWARD:

20 Q. I can bring my laptop over or I can scroll, but if you
21 could tell the jury whether this looks like the return that
22 you received.

23 A. Yes, sir.

24 Q. These are the files that were provided in response to a
25 subpoena?

1 A. Yes, sir.

2 Q. Could you explain why there's no video files in this
3 return?

4 MR. MANZO: Objection, your Honor. Can we get on
5 the phone?

6 THE COURT: Sure.

7 (Whereupon, the following proceedings were had at
8 sidebar outside the presence of the jury:)

9 MR. MANZO: We do not understand the relevance.
10 There's not a discovery violation here. The fact that this
11 agent has or has not seen a video file that is on
12 Mr. Woodward's computer is not of relevance to the jury's
13 determination in this case.

14 If this was a case where --

15 THE COURT: Hold on. Hold on.

16 Mr. Woodward, what's the -- what are you trying to
17 get at here?

18 MR. WOODWARD: In fact, the videos were not
19 produced as part of the return.

20 MR. MANZO: That's --

21 THE COURT: How do you know what you have on your
22 screen here is the full return?

23 MR. WOODWARD: Well, I'm asking him. I'm trying
24 to lay the foundation. But there's a file on the return
25 that has links to social media websites. And so the agent,

1 in fact, would have gone to the social media website and
2 downloaded the video. And that's not consistent with his
3 testimony in authenticating these records.

4 THE COURT: Well, I don't know that you can show
5 him this and say it's not in here, because it's not clear to
6 me that what you're showing him on the screen is the full
7 return. I don't know how you have what you have and why you
8 have it, but -- I don't know whether the Government can
9 represent it's the full return or not.

10 MR. WOODWARD: I think the Government is going to
11 have a hard time telling your Honor they received the video
12 as part of this return.

13 MR. MANZO: We can investigate further during the
14 break, but we just do not think this is an area or avenue
15 for cross-examination of the agent. He has no idea what is
16 discovery -- the discovery was not provided -- or the return
17 was not provided to him. It's just not something that he
18 has any personal knowledge of.

19 THE COURT: Well, I don't recall that he said this
20 came back as part of the return. But if he did and it
21 didn't, then you can cross-examine him about it. If you
22 want to establish that he believed the video was part of the
23 return -- I don't remember if he said that or not.

24 MR. WOODWARD: I think he did say that already.

25 THE COURT: Okay.

1 (Whereupon, the following proceedings were had in
2 open court:)

3 THE COURT: The objection is overruled.

4 BY MR. WOODWARD:

5 Q. One of the documents provided by Mr. Smrecek was a file
6 called video links.

7 Do you recall that?

8 A. Yes, sir.

9 Q. And in that file, which I am pulling up on the screen
10 for you, there were several links. Correct?

11 A. Yes.

12 Q. And did you click on any of those links as part of your
13 investigation?

14 A. I haven't watched the rest of those links. No, sir.

15 Q. You have not clicked on any of the links in this
16 document?

17 A. No, sir. I've only reviewed the video that we've just
18 watched here.

19 Q. And where did you get the video?

20 A. If it wasn't provided in that file, I can't tell you the
21 source of it. It was in the material that I reviewed prior
22 to my testimony here today.

23 Q. Well, if I could ask you to look at -- you saw me click
24 on the link?

25 A. Yes, sir. It's an Instagram link.

1 Q. And is this one of the videos that you played for the
2 jury yesterday?

3 A. It is.

4 Q. And do you see the text here on the right of that video?

5 A. Yes.

6 Q. And do you see the hashtags and the "at" symbol notices
7 as well?

8 A. Yes.

9 Q. And do you see the one here that is "Stop Antifa"?

10 A. I see that.

11 Q. The trainings that you testified about, they occurred on
12 September 20th and then again on October 25th?

13 A. Yes.

14 Q. Are you aware of -- and -- new sentence. I'm sorry:
15 You testified that Mr. Meggs participated in the trainings?

16 A. Yes, sir.

17 Q. And that Mr. Harrelson participated in the trainings?

18 A. Yes, sir.

19 Q. Are you aware of either Mr. Meggs or Mr. Harrelson
20 participating in any trainings after November 3rd of 2020?

21 A. Not to my knowledge with Combat Art Training. No.

22 Q. Are you aware of them participating in any other combat
23 training after November 3rd of 2020?

24 A. I don't believe so.

25 Q. So the only two trainings you're aware that Mr. Meggs

1 and Mr. Harrelson participated in, they occurred on
2 September 20th and October 25th?

3 A. Yes.

4 Q. Now, the Government has put together an exhibit for us.
5 This is Exhibit --

6 MR. WOODWARD: It's unlabeled.

7 MR. NESTLER: 1532.

8 MR. WOODWARD: -- 1532.

9 BY MR. WOODWARD:

10 Q. And if you've been here throughout the testimony, you've
11 seen your colleagues write on this board. Correct?

12 A. Yes, sir.

13 Q. And do you see the month of September on this board?

14 A. September or October isn't on the board.

15 Q. There was actually a training that I believe you
16 testified about with respect to Mr. Meggs and maybe
17 Mr. Harrelson as well. It was a training offered by Jeremy
18 Brown. Correct?

19 A. Yes, sir.

20 Q. And you remember that occurring in November?

21 A. I believe so.

22 Q. Do you understand the difference between conventional
23 warfare and unconventional warfare?

24 A. No, sir. I'm not an expert on the difference between
25 the two.

1 Q. Well, would you disagree that conventional warfare is
2 going to involve things like tanks?

3 A. I would say conventional is what people would think of
4 when you think of a war, which is --

5 Q. What we're seeing in the news right now?

6 A. Correct.

7 Q. And unconventional warfare is not that?

8 A. Correct.

9 Q. Would you be surprised that it was at that training that
10 Mr. Meggs learned about encryption technologies?

11 A. Would I be surprised that he learned about encryption at
12 that training?

13 Q. Yes.

14 A. I'm unaware of everything that was taught or the
15 complete substance of the unconventional warfare training.
16 I haven't read the complete text of that.

17 Q. Well, you testified about Proton Mail and Signal. And
18 you testified about how they provide -- and VPN. You
19 testified about VPNs.

20 A. Yes, sir.

21 Q. And about how they provide the ability to communicate in
22 an encrypted format.

23 A. That's correct.

24 Q. And would it surprise you to learn that those
25 technologies -- well, let me rephrase that question.

1 You also testified that a search warrant return
2 for a Signal message is not going to return -- a search
3 warrant return from Signal, the company, would not return
4 the messages. Correct?

5 A. The content of the messages. Yes. That's correct.

6 Q. Because Signal, the company, doesn't keep the content of
7 messages?

8 A. That's correct.

9 Q. But you also are aware that Verizon, AT&T, T-Mobile,
10 they don't keep the content of messages either?

11 A. That's correct.

12 Q. And so while you may not know what the information
13 provided at the November unconventional warfare training
14 was, you did testify that it was around that time that
15 Mr. Meggs started referring to himself as OK Gator in the
16 GoToMeeting logs that you displayed for the jury.

17 A. I don't remember the exact date. We could look at the
18 GoToMeetings records to see when the name was changed.

19 Q. I'm happy to put those up for you.

20 THE COURT: Mr. Woodward?

21 MR. WOODWARD: I'll move on, your Honor.

22 BY MR. WOODWARD:

23 Q. Speaking of Signal chats, you testified -- you read a
24 number of Signal chats to the jury. Correct?

25 A. Yes, sir.

1 Q. Including --

2 MR. WOODWARD: We can publish this one for the
3 jury.

4 BY MR. WOODWARD:

5 Q. Including the one I've put up here. This is a link that
6 you clicked on and you went to?

7 A. Yes.

8 Q. And you read to the jury from that link?

9 A. Yes, sir.

10 Q. And this is the article that you read portions of for
11 the jury?

12 A. Yes, sir.

13 THE COURT REPORTER: Counsel, I don't know if you
14 want to identify any of this for the record.

15 MR. WOODWARD: Thank you, ma'am. This is Exhibit
16 6860 and 6860.2.

17 BY MR. WOODWARD:

18 Q. Could you read the paragraph that I'm going to -- could
19 you read that for the jury? Please.

20 A. "Because we also realize the radical left will quickly
21 take to the streets to try to murder patriots and seize
22 control over the country, we urge all Americans to prepare
23 your own homes, families and neighborhoods to defend against
24 Antifa/Black Lives Matter terrorism, which is now synonymous
25 with FBI terrorism and FBI raids on patriots. The FBI is

1 now essentially a branch of Black Lives Matter, and it
2 functions in its entirety as a terrorism front group for the
3 radical left."

4 Q. You also -- you also testified about somebody named
5 Hacksaw Jim Duggan?

6 A. Yes, sir.

7 Q. And you told the jury you knew who he was?

8 A. Yes.

9 Q. And could you remind them, who is Hacksaw Jim Duggan?

10 A. He's a former wrestler, WWE wrestler.

11 Q. WWE wrestler?

12 A. Yes, sir.

13 Q. Are you aware --

14 A. Or if it was -- so before WWE, it was WWF or -- I know
15 the name has changed over the years.

16 Q. This was a picture, I believe, that you showed the jury.
17 This is Exhibit 6863.2?

18 A. Yes, sir.

19 Q. And you testified that he was known for hitting people
20 with a two-by-four?

21 A. Yes.

22 Q. And you're aware, I hope, that WWE is fake?

23 A. I believe everyone has common knowledge that WWE is
24 not -- you aren't actually harmed during those matches.

25 Q. You are [sic] harmed during those matches. But there's

1 some level of acting involved in WWE performances?

2 A. Well, no. That's what I said. I said I think we're all
3 aware that no one is actually harmed.

4 Q. No one is actually -- so he's not actually hurting
5 people with this two-by-four?

6 A. No. But it is -- he's acting as if he is harming people
7 with it.

8 Q. He's pretending?

9 A. Yes.

10 Q. Okay. Now, you were here for Terry Cummings's
11 testimony. Correct?

12 A. Yes, sir.

13 Q. And you saw some of the evidence that was put on by
14 Mr. Cummings, including what was introduced as Exhibit 5202.

15 MR. WOODWARD: If we could show the jury again.

16 BY MR. WOODWARD:

17 Q. Do you recognize Mr. Meggs in this picture?

18 A. I believe -- I'm not sure if that's Mr. Meggs in the
19 center of that photo there. But I don't recall watching
20 this video here --

21 Q. All right. Well, if I --

22 A. -- prior to my testimony today. If the --

23 Q. If I could direct your attention --

24 THE COURT REPORTER: I'm sorry. What was the last
25 thing you said?

1 THE WITNESS: I said I don't believe I reviewed
2 this particular video here prior to today.

3 BY MR. WOODWARD:

4 Q. If I could just direct your attention to the individual
5 that I've shaded here.

6 Do you see that person?

7 A. Yes, sir.

8 Q. Do you see them carrying a two-by-four?

9 A. No, sir.

10 Q. You read a lot of Signal messages to the jury. But you
11 wouldn't disagree, would you, that there's a lot of Signal
12 messages that you didn't read to the jury also? Correct?

13 A. That's correct.

14 Q. And would you disagree with me that on Mr. Rhodes's
15 phone alone, something in the neighborhood of 20,000
16 messages were collected?

17 A. I know there were thousands. I don't know the exact
18 number.

19 Q. And you testified that you didn't choose what exhibits
20 were going to be read. You read what was asked of you.

21 A. That's correct. I don't choose --

22 Q. If I --

23 A. -- what is put on as evidence.

24 Q. I'm sorry to talk over you, sir. If you could repeat
25 your answer.

1 A. I stated that that's correct. I don't choose what is
2 presented as evidence.

3 Q. Okay. Well, if I could ask you to read a few more of
4 those messages.

5 So you read this message to the jury yesterday.
6 Correct?

7 MR. MANZO: Objection, your Honor.

8 THE COURT: Basis?

9 MR. MANZO: If we could get on the phone.

10 (Whereupon, the following proceedings were had at
11 sidebar outside the presence of the jury:)

12 THE COURT: Mr. Manzo?

13 MR. MANZO: That message is incorrect. He didn't
14 say that.

15 THE COURT: I'm sorry?

16 MR. MANZO: The message is wrong.

17 THE COURT: The message is wrong? What do you
18 mean?

19 MR. MANZO: It's got -- it's distributed to
20 Stewart Rhodes. It's not him saying that in the real
21 message.

22 THE COURT: Oh. So it's just incorrectly labeled,
23 is what you're saying?

24 MR. MANZO: Yes.

25 THE COURT: She's fixed it.

1 (Whereupon, the following proceedings were had in
2 open court:)

3 BY MR. WOODWARD:

4 Q. Do you recall reading this message to the jury
5 yesterday?

6 A. No, sir.

7 Q. Well, would you read it for the jury now, please?

8 A. "Anyone that doesn't have a Taser for personal defense,
9 order one now."

10 MR. WOODWARD: And we'll label this as Exhibit
11 KM-10.

12 MR. MANZO: Your Honor, can we get on the phone
13 again?

14 (Whereupon, the following proceedings were had at
15 sidebar outside the presence of the jury:)

16 MR. MANZO: We did not -- this agent did not read
17 these messages and we did not move these into evidence.

18 THE COURT: I know.

19 I assume these are coming in under a rule of
20 completeness request?

21 MR. WOODWARD: Correct.

22 THE COURTROOM DEPUTY: I published it early.

23 THE COURT: Mr. Woodward, is that the --

24 MR. WOODWARD: Correct.

25 MR. MANZO: We just saw them on the screen to the

1 jury.

2 THE COURT: I think that was probably -- that was
3 inadvertent.

4 But is there any objection to admitting these?

5 MR. MANZO: We've made a series of objections.
6 But I believe Mr. Woodward is aware of them and we'll pause
7 when we get to them.

8 MR. WOODWARD: A series of objections? There are
9 three specific slides I'm aware of.

10 Have we taken it down from the jury?

11 THE COURTROOM DEPUTY: Yes.

12 MR. WOODWARD: Do you want to -- can you put up
13 the ones that they've objected to?

14 MR. MANZO: Apologies. My colleague was reviewing
15 these at lunch and I think -- Ms. Rakoczy --

16 THE COURT: What's the issue? Can we move
17 forward?

18 MS. RAKOCZY: Your Honor, we objected to Nos. 11
19 through 12 coming in under rule of completeness. You'll see
20 the prior one, Slide 10. If we just look at Slide 10, our
21 guess was that that was responsive to some comments that
22 Mr. Meggs himself made about referencing the Proud Boys. So
23 we can understand why this one comes in.

24 Going on to Slides 11 to 12, Mr. Ulrich's
25 statements about why he did not or -- did not want to join

1 the Proud Boys seemed to us to not be pertinent under rule
2 of completeness.

3 THE COURT: Can I see them?

4 Next. Oh, it was 9 and 10 you're objecting to?

5 MS. RAKOCZY: No, your Honor. 11 and 12.

6 THE COURT: Okay. That's what I thought.

7 Next.

8 MS. RAKOCZY: Your Honor, the other objection was
9 Slide 27.

10 Your Honor, a number of the messages in here
11 talked about weapons and what weapons they could or could
12 not bring and the D.C. laws on weapons. We understand why
13 some of those were coming in.

14 Here, Mr. Siekerman's comment about kits, TP and
15 wipes and Porta Potties just did not seem to be on that same
16 chain.

17 THE COURT: Well, I don't think it's a terribly
18 significant one, but I'll let 27 in.

19 I don't remember. Did anything come in from
20 Mr. Ulrich before in terms of his comments on the chat?

21 MS. RAKOCZY: There were a few through Special
22 Agent Abrams's testimony at the start of the day yesterday.

23 MR. WOODWARD: He is also Bilbo.

24 THE COURT: Right.

25 MR. WOODWARD: There were several messages --

1 THE COURT: Look, Mr. Ulrich is alleged to be part
2 of the conspiracy. I don't remember whether this
3 necessarily is contextualizing what was already admitted,
4 but it's harmless to allow it in. And so I'll allow them
5 in.

6 Go ahead.

7 (Whereupon, the following proceedings were had in
8 open court:)

9 THE COURT: The objection is overruled.

10 MR. WOODWARD: So then we'd move to admit KM-10
11 and publish to the jury.

12 THE COURT: KM-10 will be admitted.

13 (Whereupon, Defendant Meggs's Exhibit No. KM-10
14 was entered into evidence.)

15 BY MR. WOODWARD:

16 Q. And I won't ask you to read Slide 2 again.

17 Slide 3, also admitted by the Government.

18 Slide 4 was admitted by the Government.

19 Slide 5 was admitted by the Government.

20 Slide 6 was admitted by the Government.

21 Slide 7 was admitted by the Government.

22 Slide 8 was admitted by the Government.

23 But Slide 9 was not admitted by the Government.

24 Could you read Slide 9 for us, please?

25 A. Sure. "Proud Boys leader said many won't be dressed in

1 their colors for D.C. but will instead look like Antifa.
2 And if shit gets weird, they will attack from within."

3 Q. And Slide 10?

4 A. "Makes no sense at all. Not the time to go gray.
5 That's for sure. Just proves their motives vary greatly
6 from ours. They want to chase kids around the street. We
7 want to save the republic. I guess both have their place.
8 But I like where we stand."

9 Q. And who sent that message?

10 A. Kelly Meggs.

11 Q. Slide 11?

12 A. "That's why, when I was looking for a group to join, I
13 couldn't bring myself to even think about joining Proud
14 Boys. There's a lot of things they do that I respect and,
15 like you said, there's a time and place, but I can't help
16 but feel like they have a frat boy image and they're just
17 out looking for a fight."

18 "Continued."

19 Q. Slide 12.

20 A. "Having said that, it's great when they help those in
21 need and push Antifa away from Trump supporters."

22 Q. Next slide.

23 A. "You won't win against D.C. gun laws if you're caught."

24 Q. Next slide.

25 A. "As stated before, I was sharing a video that someone

1 forwarded me. A heads-up, if you will."

2 Q. Next slide.

3 A. "Reading the gun laws, you wouldn't want a gun anyways.
4 No castle doctrine and no stand your ground. Basically,
5 you're in the clear if someone shoots at you first."

6 Q. Next slide.

7 A. "Clarification on firearms: By all means, bring them
8 with you to Virginia in case the shit hits the fan.
9 Majority. We will need them if it does. Roll with your
10 load out and be ready for what may come. But do not bring
11 weapons into D.C. unless you are LEO with LEOSA creds.
12 Unless and until shit truly hits the fan."

13 Q. LEO is law enforcement officer?

14 A. Yes.

15 Q. If you could read the next slide for us, please.

16 A. "This is the exact same thing we did in both prior D.C.
17 ops. We come armed to Virginia and stow our weapons there
18 someplace safe and we go into D.C. without guns (except for
19 or LEOSA credential cops)."

20 Q. Next slide.

21 A. "Our firearms can be in the hands of a dedicated QRF
22 team who can link up with us if the shit truly hits the fan.
23 But otherwise, they stay out of D.C. Understand?"

24 Q. The next slide -- the Government admitted this one, and
25 this and this and this.

1 But the Government -- you don't disagree that the
2 Government did not admit -- did not ask you or one of your
3 colleagues to read this. Could you read this text for us,
4 please?

5 A. "Yep. I always carry a few kits, a plastic bag with
6 some TP and some wet wipes. Even if they have Porta
7 Potties, a lot of times there is no TP by the time I get
8 there."

9 Q. Now, the Government admitted this text. Correct?

10 A. I'm not sure. I haven't read this message during my
11 testimony.

12 Q. Why don't you read it for us now.

13 A. "Someone can tell me if I'm crazy, but I'm planning on
14 having a backpack for regular use and then a separate
15 backpack with my ammo load out with some basics that I can
16 just switch to if shit truly hits the fan blades."

17 Q. Basics like toilet paper?

18 A. I don't know what he meant by "basics."

19 Q. Next slide.

20 Next slide.

21 Next slide.

22 If you could read this one for us.

23 A. "I have a ruck for the day with all my items, and if we
24 get a QRF set up, I have a go-bag to put in that."

25 Q. A go-bag with toilet paper?

1 A. (No response.)

2 Q. You don't know?

3 A. I don't know.

4 Q. Next slide. Could you read that for us, please?

5 A. "Yep. Med kits are important to have. Have my IFAK
6 kit, another tourniquet and a larger kit for my ruck."

7 Q. Next slide, please.

8 A. "Old Army medic here and a longtime EMT."

9 Q. And who sent that message?

10 A. Mr. Don Siekerman.

11 Q. Do you know who he is?

12 A. I do.

13 Q. Is he on the board, if you will?

14 A. He is.

15 Q. Next slide, please.

16 A. "We will have a team there Monday and Tuesday from
17 Florida."

18 Q. What's the date of that message?

19 A. December 31st of 2020.

20 Q. Next slide, please.

21 A. "I am sorry. Tuesday and Wednesday."

22 Q. Next slide, please. Do you remember reading this
23 message today?

24 A. I do.

25 Q. Next slide, please. But not this one?

1 A. No. I have not read this message.

2 Q. Could you read it for us, please.

3 A. "Okay, folks. For all you LEOSA qualified
4 retired/active LEOs, just talked to the LT who is watch
5 commander for the first district DCPD. He knows of no
6 special specific restrictions on LEOSA carry as far as the
7 city. However, he gave me the direct email for the district
8 commander, but she is out until Monday."

9 Q. Sorry. If we could go back to the prior slide.

10 First district DCPD. By that, would you agree
11 that he's referring to the District of Columbia police
12 department?

13 A. I would assume so.

14 Q. Okay. And you didn't read this slide before just now?

15 A. No, sir.

16 Q. Next slide.

17 A. "So" --

18 Q. Read that, please.

19 A. "So I am waiting for something in hard copy on that.
20 One thing to keep in mind is that you must follow the
21 magazine limits of ten rounds, but the LT knows of no limits
22 on numbers of mags."

23 Q. Next slide.

24 A. "Okay, folks. Got something totally different from the
25 district commander: It goes totally against Act 218, but I

1 don't think I want to be the one to test it for the next ten
2 years in court. So if you carry, beware. This is the email
3 I received: Good afternoon, Don. You cannot carry while
4 engaged in First Amendment activities. We will post
5 warnings advising of such, and persons will be subject to
6 arrest and prosecution. Commander Kane. Sent from my
7 iPhone."

8 Q. Next slide, please.

9 A. "Any restrictions in D.C. on Tasers?"

10 Q. Next slide, please.

11 A. "The flashlight stun gun type."

12 Q. Next slide, please.

13 A. "Taser are a no. Stun gun, yes."

14 Q. Next slide, please.

15 A. "I have a Vipertek/flashlight/Taser combo."

16 Q. Next slide.

17 A. "Roger that."

18 Q. Next slide, please.

19 A. "Same here, Vipertek 989/stun gun/flashlight."

20 Q. Next slide, please.

21 A. "I've bringing an OK flag on a nice thick piece of
22 wood."

23 Q. This is the message that you read earlier in context to
24 the WWF?

25 A. Yes, sir.

1 Q. Next slide, please.

2 A. "That will be enough for me. Hacksaw" --

3 Q. I think we've had enough fun with Mr. Duggan for one
4 day.

5 Next slide, please.

6 A. "Lots of folks had some very stout walking sticks during
7 the last one. Didn't see PD say anything."

8 Q. Do you remember reading that earlier today?

9 A. I do.

10 Q. How about the next one?

11 A. "Yes. Saw the same thing."

12 Q. Next slide.

13 A. "Make sure it looks like a hiking staff and should be no
14 issue."

15 Q. Next slide, please.

16 A. "So I have a truck driver's tire thumper. Will that
17 work?"

18 Q. Next slide, please.

19 A. "Well, you have to be careful. The wording of their
20 weapons regulations does not have a common purpose, and
21 knowing DAs, if there was no legitimate reason to have it on
22 you at that time, not trying to discourage. Just advising.
23 I know how these people think. A really good walking staff
24 has that purpose."

25 Q. Next slide, please.

1 A. "Cattle prods aren't mentioned in the banned items."

2 Q. You read that one earlier today as well?

3 A. I did.

4 Q. Next slide, please.

5 A. "Need lots of rope."

6 Q. Next slide, please. That's it.

7 And, again, you didn't choose which slides you
8 read today?

9 A. No, sir.

10 Q. You also showed the jury a picture of a guillotine.
11 Correct?

12 A. Yes, sir.

13 Q. And you testified that you were familiar with the
14 guillotine's use during the French Revolution?

15 A. Yes, sir.

16 Q. Do you have any knowledge of the guillotine being used
17 today?

18 A. I don't know of any time it's actually been used against
19 anyone. No, sir.

20 Q. I'll pull this picture up for you. This is Government's
21 Exhibit 6868.2.

22 Do you remember this picture?

23 A. That's the picture of the guillotine.

24 Q. And I'm just going to zoom in on a few areas here.

25 Do you think that this is an actual Home Depot

1 advertisement?

2 A. No. This appears to be a meme.

3 Q. A meme. What is a meme?

4 A. It's a photo that someone has made on their own and
5 shared it, usually on social media.

6 Q. And would you agree that a meme is typically meant in
7 jest?

8 A. Depends on what's on the meme.

9 Q. All right. Do you think that this instruction actually
10 provides -- or this image actually provides instruction for
11 how to build a guillotine?

12 A. It shows the components of a guillotine. But I believe,
13 when you take this meme and pair it with a comment, it gives
14 it context.

15 Q. All right. Now, you also read a number of Facebook
16 messages. Actually, let's go to the other video that you
17 played for the jury today.

18 MR. WOODWARD: This is Government's Exhibit
19 6863.1. I believe the Government only admitted a portion of
20 it, but we would seek to admit the entire video.

21 MR. MANZO: What number?

22 MR. WOODWARD: 6863.1.

23 THE COURT: Is there any objection to the full
24 video coming in?

25 MR. MANZO: No, your Honor.

1 THE COURT: 6863.1 will be admitted.

2 (Whereupon, Government's Exhibit No. 6863.1 was
3 entered into evidence.)

4 (Whereupon, segments of Government's Exhibit No.
5 6863.1 were published in open court.)

6 MR. WOODWARD: Let me just turn that down a little
7 bit. And if anybody can't hear that, please let the Court
8 know.

9 (Whereupon, segments of Government's Exhibit No.
10 6863.1 were published in open court.)

11 BY MR. WOODWARD:

12 Q. Do you agree with anything that he said?

13 MR. MANZO: Objection. Calls for an opinion.

14 THE COURT: Sustained.

15 BY MR. WOODWARD:

16 Q. But you testified that Kelly Meggs sent that video to a
17 chat. Correct?

18 A. Multiple times.

19 MR. WOODWARD: If we could put --

20 BY MR. WOODWARD:

21 Q. "I'm not making any suggestions in any way, but this is
22 sent as an FYI."

23 That's the text you read earlier today?

24 A. That is one of the texts I read today in relation to
25 that post.

1 Q. And then later, he says: "It's from a few weeks back,
2 making its round on the internet"?

3 A. That is another related to that. It is.

4 MR. WOODWARD: Keep going, please.

5 Again.

6 That's it.

7 BY MR. WOODWARD:

8 Q. Well, speaking of bringing firearms to D.C., are you
9 aware of any evidence in this investigation that Mr. Meggs
10 brought firearms into the District of Columbia?

11 A. I am not.

12 Q. Are you aware of any evidence in this investigation that
13 Mr. Meggs had any weapons seized from his house?

14 A. I'm not aware of any weapons that were seized from
15 Mr. Meggs. No.

16 Q. Do you have any specific knowledge of the weapons that
17 were -- that the Government claims were stored at the QRF in
18 Virginia?

19 A. You said do I have knowledge that there were weapons
20 stored at a QRF in Virginia?

21 Q. Well, I said specific knowledge. But if you have some
22 knowledge, that's -- please tell us.

23 A. Yes.

24 Q. Have you had the opportunity to look inside the hotel
25 room where those weapons were stored?

1 A. No.

2 Q. And did you know -- and did you know -- well, I'll move
3 on.

4 MR. WOODWARD: I think that's it. Thank you.

5 THE COURT: Thank you.

6 Mr. Geyer?

7 MR. GEYER: Thank you.

8 CROSS-EXAMINATION

9 BY MR. GEYER:

10 Q. Special Agent, nice to meet you.

11 A. Good afternoon, sir.

12 Q. My name is Brad Geyer. And back in the corner is Ken
13 Harrelson.

14 Directing your attention to --

15 MR. GEYER: Could you pull up 700.1, please.

16 BY MR. GEYER:

17 Q. Directing your attention to March 10th, 2021, did you
18 have occasion to execute a search warrant at the Harrelson
19 home?

20 A. Yes, sir.

21 Q. And --

22 THE AUDIOVISUAL TECHNICIAN: J.C., please switch
23 it over.

24 MR. GEYER: Thank you. It's already been
25 introduced into evidence.

1 BY MR. GEYER:

2 Q. And when you arrived at the house, was Mr. Harrelson on
3 the ladder cleaning his gutters?

4 A. He was.

5 Q. And you allowed him to come down off the ladder. And
6 you cuffed him while he was standing up.

7 A. Yes, sir.

8 Q. In other words, you didn't throw him on the ground.

9 A. That's correct.

10 Q. Thank you for that, sir. I appreciate that.

11 There was some -- initially some talk about having
12 him detained at the end of his driveway. But I understand
13 reasonable minds prevailed and he was brought back to the
14 porch and given his last cigarette. Is that right?

15 A. I don't ever -- I don't remember anything about a
16 discussion about him being detained at the end of his
17 driveway. I don't know what you're referring to.

18 Q. Okay.

19 MR. GEYER: Can you please put up 700.2.

20 BY MR. GEYER:

21 Q. I'm interested in the evolving interpretations and
22 definitions of what is considered a go-bag.

23 What about that is a go-bag to you? It's a Klein
24 bag, isn't it? It's a Klein tool bag. Are you familiar
25 with that?

1 A. You're referring to the brand of the bag?

2 Q. It's a bag for carrying tools. It's not a bag for
3 running off into the woods. Do you realize that?

4 A. I believe you can throw items into any bag, including a
5 plastic bag, and it can be considered a go-bag based off the
6 contents of the bag.

7 Q. But you realize there's connotations associated with
8 go-bag?

9 A. I do.

10 Q. Okay. In the bag, you found a handgun?

11 A. Yes, sir.

12 Q. And you must be aware, because the handgun is still
13 located in the Harrelson household, that both Ken Harrelson
14 and Angel Harrelson were lawful CCW carriers. Is that
15 correct?

16 A. I don't know if they have CCWs or not. But you don't
17 need a CCW to have a weapon at your home.

18 Q. But you said that you were -- you do a thorough
19 investigation. You would not have determined whether they
20 were active CCW carriers?

21 A. Yes. That is usually one of the things we look up.
22 That will give us an indication if someone has a firearm or
23 not. But if they don't have a CCW, it doesn't mean that
24 they don't have firearms, because you don't need a CCW to
25 own a firearm.

1 Q. I understand. Thanks for clarifying that.

2 THE COURT: Mr. Geyer, could you just ask the
3 witness to clarify what the term "CCW" means?

4 MR. GEYER: Excuse me?

5 THE COURT: What CCW means. I'm not sure
6 everybody on the jury may know what it means.

7 MR. GEYER: Thank you, your Honor.

8 BY MR. GEYER:

9 Q. Could you inform us what CCW is, it stands for?

10 A. CCW refers to concealed carry weapon permit, meaning
11 that is what you would need to conceal a weapon on -- your
12 firearm away from your residence and carry that weapon on
13 you in the state of Florida.

14 Q. Thank you.

15 MR. GEYER: And thank you, your Honor.

16 BY MR. GEYER:

17 Q. And is it your understanding that there's many states
18 outside of the District, that if you have a CCW permit, you
19 can buy weapons, carry weapons, transport weapons? Is that
20 correct?

21 A. Yes. It depends on if you can legally or not.

22 Q. And so people might buy a weapon in Florida, drive to
23 Texas, store it, drive up north and stay in a Virginia
24 hotel, keep the weapons there, come back, and there's really
25 nothing that law enforcement can do about that in most

1 instances. Isn't that correct?

2 A. I don't believe --

3 MR. MANZO: Objection. It calls for opinion.

4 THE COURT: I agree. That's an opinion --

5 MR. GEYER: I'll withdraw it.

6 THE COURT: -- question. He's not prepared to
7 answer that. So it's sustained.

8 BY MR. GEYER:

9 Q. Also -- also --

10 MR. GEYER: Would you be willing to put on 700.19,
11 please.

12 BY MR. GEYER:

13 Q. Now, these are books that were recovered -- they were
14 recovered from the household, let's say.

15 Were you aware that Angel Harrelson purchased
16 these books?

17 A. No, sir. I don't know who purchased the books.

18 Q. And were you aware that their son -- and I'd request
19 that we not mention his name; I know you probably know who
20 that is -- that their son was interested at that time in
21 entering the military?

22 A. No, sir. I don't have any knowledge of the son and his
23 activities.

24 Q. Okay. And did you know that Ken at that time was
25 reading books, among -- some among these, in an effort to

1 mentor his son for a military career?

2 A. No, sir. I don't know about any of Mr. Harrelson's
3 activities with his family outside of this investigation.

4 Q. Do you know that his son went to boot camp in June and
5 is currently in the Army?

6 A. No, sir. I don't have any knowledge in that -- with
7 regards to that.

8 Q. And his daughter is currently in JROTC and may pursue a
9 career in the Army?

10 A. No, sir. I did not know that.

11 Q. Okay.

12 MR. GEYER: Can you please put up 700.24.

13 BY MR. GEYER:

14 Q. Now, there's two long guns in that safe, aren't there?

15 A. Yes.

16 Q. One is an Airsoft gun and one is an AR-15. Is that
17 right?

18 A. Yes, sir.

19 Q. And neither of those guns were seized on that occasion?

20 A. No, sir.

21 Q. So no illegal weapons in the house?

22 MR. MANZO: Objection. Legal conclusion.

23 THE COURT: I'll sustain the objection. You can
24 ask the question differently. But I think the way it's
25 phrased is not proper.

1 MR. GEYER: Okay. Would you be willing to pull up
2 6863.010. I remember the old days when we had single-digit
3 exhibits. 6863.010.

4 THE AUDIOVISUAL TECHNICIAN 6863.010 you said?

5 MR. GEYER: Do you know what? I can move on.
6 It's okay. I probably copied the wrong one down.

7 BY MR. GEYER:

8 Q. You testified about how, on this particular text, which
9 is on the D.C. Op January 6th '21 -- Op chat, I guess, that
10 at the bottom, the .695 indicates that there was 695 chats
11 beneath this one. Is that correct?

12 A. That indicates that this message that was posted was
13 message No. 695 within the D.C. Op Jan 6th '21 chat.

14 Q. And when somebody is added to a chat, they don't see all
15 the chats that came before it. They see the chats that come
16 after it. Isn't that right?

17 A. I believe that may be the way Signal works.

18 Q. So somebody added on the 3rd of January wouldn't have
19 seen all the 695 chats leading up to it. You would agree
20 with that?

21 A. Yeah. I'm not an expert on Signal. I can't -- I don't
22 want to say for sure.

23 Q. But the --

24 A. You know, I know how to -- in regards to a text message,
25 if you get added, you don't see the messages that are

1 already there.

2 Q. Right.

3 MR. GEYER: Can we go to Facebook -- I'm sorry --
4 6868-007. I hope I got the right number down.

5 BY MR. GEYER:

6 Q. Now, this is a Facebook thread. Is that right?

7 A. That's correct.

8 Q. And so this means that on this particular thread on
9 Facebook, there were 1,070 posts, which doesn't include the
10 replies in the posts. Is that right?

11 A. No, sir. That's not correct.

12 Q. Okay.

13 A. 1,070 refers to the page number of the return from
14 Facebook. Usually, in a Facebook return, you will get many
15 pages, even hundreds, of unusable data. It may be 20 pages
16 long and it just lists the names of your friends list. You
17 may have other pages that just may list searches that you've
18 conducted.

19 So this particular 1070 marking at the bottom just
20 refers to the page number of the PDF that we received from
21 Facebook.

22 Q. Okay.

23 A. So no, it doesn't correspond to messages that were
24 posted prior to this message.

25 Q. Thank you for clearing that up. That actually makes my

1 point a little bit less profound. But you -- thank you,
2 Special Agent.

3 A. You're welcome.

4 Q. But you would agree that Ken Harrelson -- actually, let
5 me rephrase that.

6 Are you aware that Ken Harrelson canceled his
7 social media accounts in 2014?

8 A. I haven't reviewed any other social media of
9 Mr. Harrelson, so I can't say that he has Facebook pages.

10 Q. So you'd be in a position to accept my assertion that,
11 since 2014, he wasn't on Facebook and he wasn't on Twitter?

12 A. I've never seen a Twitter account belonging to -- or a
13 Facebook account belonging to Mr. Harrelson.

14 Q. So wouldn't that have been valuable context for anybody
15 seeking to get a sense as to societal conditions in 2015,
16 2016 through January 6th, to have been using Facebook and
17 Twitter, in particular Twitter?

18 MR. MANZO: Object as to form.

19 MR. GEYER: Agreed. I'll withdraw the question.

20 BY MR. GEYER:

21 Q. You referenced a full kit -- in one of the texts there's
22 a reference to a full kit. And is that classified as
23 personal protection equipment, PPE? Are you familiar with
24 that term?

25 A. I am familiar with the term "PPE." When discussing the

1 term "full kit" or "kit" in general, I've never referred to
2 it as PPE. Usually, when you think of PPE, you think of
3 goggles; you think of ear protection; gloves if you're using
4 knives. Those are forms of PPE, to my knowledge.

5 I've never referred to my personal kit that I wear
6 when I'm conducting operations with the FBI as PPE.

7 Q. Interesting.

8 Were you aware that Ken, on January 6th, was not
9 wearing any protective equipment except for perhaps gloves?
10 It was cold.

11 A. Yes. I've seen the photos of him on January 6th.

12 Q. There seems to be a little bit of a misunderstanding
13 about security details during January 6th that we're trying
14 to get to the bottom of. And I'm wondering if you would
15 help me by reviewing a video now that's been introduced in
16 evidence. Would you be willing to do that?

17 A. I will watch the video.

18 Q. Thank you.

19 THE COURT: Is this Harrelson 1, Mr. Geyer?

20 MR. GEYER: Oh, yes. I'm sorry. Defense Exhibit
21 Harrelson 1.

22 (Whereupon, segments of Defendant Harrelson's
23 Exhibit No. 1 were published in open court.)

24 BY MR. GEYER:

25 Q. First of all, this is roughly around 1:44 on

1 January 6th. And it's on First and Constitution. There's a
2 gentleman at the bottom left. Since you're an agent, isn't
3 it true that that's Tom Burgess? Do you recognize him as
4 being Tom Burgess?

5 A. I don't know who that is, sir.

6 Q. Okay. That's fair.

7 I'm next going to play the video. Are you
8 familiar with the individual at the bottom left of the
9 screen, Michael Coudrey?

10 A. I also don't know who that is.

11 Q. Are you aware that he was in a rush to get over to the
12 Capitol for a scheduled speaking event that was fully
13 licensed?

14 A. Today is my first time ever hearing that name, so no, I
15 don't know anything about him or what he was doing that day.

16 Q. That's fair.

17 (Whereupon, segments of Defendant Harrelson's
18 Exhibit No. 1 were published in open court.)

19 BY MR. GEYER:

20 Q. There's a gentleman -- there's actually a woman in the
21 bottom left who has red on. And then at about her 2 o'clock
22 you'll see somebody in an Oath Keepers shirt, a tan hat with
23 almost like a burka on. It was cold, I think.

24 Do you recognize that individual as being Jason
25 Dolan?

1 A. I believe so.

2 Q. Okay. Thank you.

3 (Whereupon, segments of Defendant Harrelson's
4 Exhibit No. 1 were published in open court.)

5 BY MR. GEYER:

6 Q. Now, there's a man at the end, in the anchorman
7 position, with his arm out to the left.

8 Do you recognize that?

9 A. Yes. That appears to be Mr. Harrelson.

10 Q. Thank you.

11 (Whereupon, segments of Defendant Harrelson's
12 Exhibit No. 1 were published in open court.)

13 BY MR. GEYER:

14 Q. You would agree that it seems as if he's directing
15 protectees at this point?

16 A. I don't know who the people are that's within that
17 group. So I don't know if I could classify them as
18 protectees or just women he was escorting or helping across
19 the street. I don't know who those folks are within that
20 crowd.

21 Q. But does it really matter? If you're helping people,
22 you're helping people. Right?

23 A. I don't know how much help someone would need crossing a
24 street with barriers set up. I don't think any cars would
25 get through there.

1 Q. Most of these were actually speakers. So in this group,
2 you know that Dr. Sandra Gold was in this group. Are you
3 familiar with her?

4 A. I am not, sir.

5 Q. Jonathan Strand, I believe.

6 A. Never heard the name.

7 Q. Michael Coudrey.

8 A. Never heard that name.

9 Q. Daniel Bostic?

10 A. No, sir.

11 Q. And another one off the top of my head would be Rose
12 Tennent.

13 A. No, sir. I'm not familiar with the individual.

14 Q. So this is roughly at 1:44 p.m. And if you're aware of
15 the timeline, isn't it true that at about 1:57 p.m., the
16 gates were pushed through on the northeast of the Capitol by
17 the Senate?

18 A. I don't want to speak to the exact times. I'm not -- I
19 don't know those off the top of my head. I would have to go
20 and review either video or some photographs. But I'll take
21 your word for it.

22 Q. Okay. Well, maybe we'll host you and have you come back
23 when it's our turn.

24 And about a minute later, the vice presidential
25 motorcade rolled out and a group of provocateurs in front of

1 the east steps pushed through.

2 THE COURT: Mr. Geyer -- sustained.

3 MR. GEYER: I'll move on, your Honor.

4 THE COURT: Thank you.

5 BY MR. GEYER:

6 Q. Now, there's been a lot of difficult presentations to
7 listen to from a gentleman by the name of Sam Adams -- I'm
8 sorry -- Sam Andrews. And there are some aspects to that
9 that I'd like to walk you through. And one of those things
10 is that he was actually there on January 6th. Were you
11 aware of that?

12 A. No, sir. I was not aware of that.

13 Q. I hope we're going to be able to work with you to get
14 this individual identified.

15 But --

16 MR. MANZO: Objection, your Honor. Relevance.

17 THE COURT: Can we get on the phone.

18 (Whereupon, the following proceedings were had at
19 sidebar outside the presence of the jury:)

20 THE COURT: Mr. Geyer, you'll have to forgive me,
21 but I don't remember the name Sam Andrews coming up. Who is
22 that?

23 MR. GEYER: He was the individual making the
24 bloviated appeals for 500,000 armed veterans to come to the
25 Capitol. He actually showed up shortly after Timothy Allen

1 Hart, about five minutes after he showed up with his posse.
2 We have them identified at the Peace Circle. Ten minutes
3 after he left, Timothy Allen Hart pushed through with other
4 provocateurs. We've identified they later viciously
5 attacked police. They break off. They break off from
6 police and push through at 1:57 in front of the northeast
7 gates.

8 THE COURT: I'm sorry. So Mr. Andrews was one of
9 the -- he's on one of the videos?

10 MR. GEYER: Yes. Your Honor, he was the guy
11 saying the things that were very difficult to listen to
12 about our patriots coming and -- it's rough. It's rough to
13 listen to.

14 THE COURT: Right. He was the one that was
15 talking about patriots coming to Washington?

16 MR. GEYER: Precisely.

17 It's my position that he actually had a plan. The
18 Oath Keepers were not in it. And if I can lay the
19 foundation, I think I can -- I'll try to go as fast as I
20 can.

21 THE COURT: Mr. Geyer, I don't know that it's
22 relevant. I mean, Mr. Andrews was -- his lawyers were
23 introduced because Mr. Meggs, I think, forwarded them his
24 actual conduct on January 6th. It seems to me to be not
25 relevant and has the potential to confuse the jury. I mean,

1 we're not here to prosecute him.

2 MR. GEYER: Actually, your Honor, in the statement
3 of facts of George Tenney, he specifically refers to these
4 calls for 500,000 patriots to come to the Capitol. He
5 opened the first door in Hart's statement of facts.

6 By the way, they were both charged properly.
7 Hart --

8 THE COURT: But -- I'm not disputing, Mr. Geyer,
9 that you've got a good-faith basis for asking about this
10 gentleman's conduct on January 6th.

11 My concern is the relevance as to this case. And,
12 you know, I understand why he was introduced, because his
13 words were earlier heard by Mr. Meggs. But I don't have any
14 reason to believe that this gentleman was in contact with
15 any of these Defendants or any --

16 MR. GEYER: No, your Honor. It's actually in
17 223-3, 223-2. We actually listed Sam Andrews. We've got no
18 discovery. And every --

19 THE COURT: Well, hold on. You're missing what
20 I'm saying, which is that I don't have any reason to believe
21 that Mr. Andrews was in contact with any of your clients or
22 any of these Defendants or any Oath Keepers on January 6th.
23 Correct?

24 MR. GEYER: That part of it is correct. But the
25 issue in terms of my defense is that my client was working.

1 He was not there to protest. Everybody walked towards the
2 steps because of the actions of these people. He responded
3 appropriately and acted commendably.

4 THE COURT: Well, I'm not going to -- that may be.
5 But I don't think you're going to get there by making this a
6 case about Mr. Andrews. And frankly, I doubt this
7 particular agent knows much about that unless he's involved
8 in that case.

9 So I'm going to ask you to move on. I just don't
10 think it's relevant. And as I said, I think it has the
11 potential for causing confusion as it involves somebody and
12 his conduct that's not been charged here. Okay?

13 MR. GEYER: Just to make the Court aware, since I
14 filed 223.1, .2 and .3, there's been -- I have a list. I've
15 been meaning to -- you know, with this *Brady* thing, you have
16 to mention it, you know, frequently in as short a time as I
17 possibly can. But there's a lot of discovery we still don't
18 have. I believe we need it. This is very important because
19 he goes over and connects up with Pastor Bill Duffy, who was
20 charged just last week. He meets up with people from the
21 back of building and actually says "Mission accomplished" at
22 2:46.

23 THE COURT: Mr. Geyer, forgive me. I think I
24 handled this in some respect in one of the orders in which I
25 sort of acknowledged that, in theory, yes, there's such a

1 thing as a third-party perpetrator defense, but it's not
2 something that's available here.

3 And absent some reason to think -- well, let me
4 just leave it at that. I mean, your clients are charged
5 with what they are charged with, and the fact that somebody
6 else did something else really isn't terribly relevant.

7 MR. GEYER: The reason I would argue it's
8 relevant, your Honor, is because he had a -- he had
9 protectees and there were Oath Keepers. Throughout the day,
10 there was at least a half dozen instances where Oath Keepers
11 either provided assistance or police actually sought them
12 out to provide assistance.

13 THE COURT: Well --

14 MR. GEYER: He'll testify about that.

15 THE COURT: Well, I mean, if you've got those
16 witnesses, you can call them in your case. But I don't
17 think it's something you're going to cross-examine this
18 witness on. All right?

19 MR. GEYER: Thank you, your Honor.

20 THE WITNESS: That's fair.

21 (Whereupon, the following proceedings were had in
22 open court:)

23 THE COURT: The objection is -- I don't know if
24 there was a formal objection, but it will be sustained.

25 MR. GEYER: Thank you, your Honor. I'll just move

1 on.

2 Do we have a stipulation on --

3 (Confers with opposing counsel privately.)

4 MR. GEYER: No more questions, your Honor. Thank
5 you.

6 THE COURT: Okay. Thank you.

7 MR. GEYER: Oh, sorry. One more.

8 THE COURT: With all these electronics, it's easy
9 to forget the paper.

10 MR. GEYER: Sorry.

11 BY MR. GEYER:

12 Q. You've read a lot of text messages today, Special Agent.
13 Did you read any about a plan to go to the Capitol?

14 A. I've read Signal messages today, and I think those
15 messages refer to just disrupting that transfer of power and
16 not about going to the Capitol.

17 Q. How about stopping the certification?

18 A. Yes, sir.

19 Q. Where? Could you direct me to those?

20 A. Sir, I believe there's messages in a totality of the
21 circumstances where there's several messages that state, "We
22 mustn't allow Biden to become president." In my honest
23 opinion, I believe that was one of the messages that was
24 posted.

25 I believe there were some messages posted by

1 Mr. Rhodes in particular that said that if the president
2 doesn't act, we will still act.

3 Just to name a -- a couple of those messages.

4 Q. But isn't it -- can't that mean a lot of things? Can't
5 that mean that we're going to go and file lawsuits in
6 different states and we're going to go and demonstrate and a
7 whole host of things? It doesn't mean that there's any plan
8 to go to the Capitol. I don't see -- I've yet to see any
9 evidence of that whatsoever.

10 THE COURT: Mr. Geyer, I'll just ask you to
11 rephrase.

12 BY MR. GEYER:

13 Q. Can you direct me to those specific texts?

14 A. The texts that I just referred to?

15 Q. Yes.

16 A. Sure.

17 Q. Okay.

18 A. Well, I don't have access to the exhibits to direct you,
19 but I can speak to the messages. For example, the message
20 posted by Mr. Rhodes that said that where we go one, we go
21 all, and we must defend and nullify together. But even if
22 the president didn't -- the president needed to know that
23 even if he didn't invoke the Insurrection Act, that they
24 would still be forced to act.

25 That's the message, one of the messages that I'm

1 referring to.

2 Q. Okay. And in your view, that was endorsing or
3 authorizing Oath Keeper members to attack the Capitol or
4 enter the Capitol?

5 A. I don't want to try to get into Mr. Rhodes's mental
6 state when he posted that, or what he specifically meant.
7 But we've just presented the messages as they are.

8 MR. GEYER: No more questions. Thank you.

9 THE COURT: Thank you, Mr. Geyer.

10 Mr. Manzo, could I just ask if you have any
11 redirect? If so, how long?

12 MR. MANZO: Fifteen minutes.

13 THE COURT: Why don't we get started and then
14 we'll take our break after that.

15 REDIRECT EXAMINATION

16 BY MR. MANZO:

17 Q. Agent Harris, on cross-examination from Mr. Geyer, he
18 asked you a series of questions about the backpack that was
19 found in Mr. Harrelson's house.

20 Do you remember that?

21 A. Yes, sir.

22 Q. What objects were in that bag?

23 A. A pistol was in the bag; survival books, amongst other
24 books, were in the bag; a flip phone that was stored in a
25 plastic baggie; a tourniquet.

1 I believe that those were all the items that were
2 in the bag.

3 Q. Were the books that you photographed in the 700 series,
4 were those from the bag or were those from his son or
5 daughter's bookcase?

6 A. All those books were from the backpack.

7 Q. Mr. Fischer started off by asking a series of questions
8 about whether you talked to us at lunch. Is that fair to
9 say?

10 A. He asked if I had discussed anything with you all during
11 the lunch break. Yes.

12 Q. Do you remember Ms. Rakoczy telling you to eat your
13 salad in the hallway?

14 A. Yes, because I went to the room before you guys did, and
15 I left the room to allow you guys to eat and I went and ate
16 my lunch downstairs near the cafeteria.

17 Q. And why did you not eat with us?

18 A. Because we cannot discuss my testimony while I'm still
19 under oath with you guys.

20 Q. Mr. Fischer asks you a series of questions about the
21 legality of guns in Florida.

22 Do you remember that?

23 A. Yes.

24 Q. If someone owns -- legally owns a gun, can they still
25 use it in an illegal manner?

1 A. Absolutely.

2 Q. If you legally owned a gun and went and robbed a bank
3 with that gun, what would happen?

4 MR. WOODWARD: Objection.

5 THE COURT: It's overruled.

6 THE WITNESS: You would be arrested just the same.

7 BY MR. MANZO:

8 Q. If you had a gun and used it to support a conspiracy,
9 what would happen?

10 A. You'd be arrested just the same.

11 Q. And if you had a gun and used it in support of a
12 conspiracy to stop the transfer of power?

13 THE COURT: That is -- that is sustained.

14 BY MR. MANZO:

15 Q. Mr. Fischer asked you a series of questions about
16 whether this was -- the weapons displayed in court were
17 semiautomatic or automatic.

18 Do you remember that?

19 A. Yes, sir.

20 Q. Can you describe what a semiautomatic weapon is?

21 A. A semiautomatic weapon is a weapon that fires one bullet
22 per trigger press.

23 Q. How many bullets could you fire in a semiautomatic
24 weapon in about ten seconds?

25 A. It depends on how fast you can flick your finger. So

1 more than ten. 20. 15 to 20, maybe.

2 Q. Mr. Woodward, I believe, asked you a series of questions
3 about Donald Siekerman allegedly contacting the Metropolitan
4 Police Department.

5 Do you remember that?

6 A. Yes, sir.

7 Q. Are you aware of whether Don Siekerman provided the
8 Signal messages to the Metropolitan Police Department as
9 well?

10 A. I'm not aware of that.

11 Q. Have you seen any evidence of that?

12 A. No, sir.

13 Q. Mr. Woodward also asked you questions about some
14 messages regarding Mr. Ulrich's potential membership in the
15 Proud Boys.

16 Do you remember that?

17 A. Yes, sir.

18 Q. Are the Proud Boys on trial in this courtroom today?

19 A. No, sir.

20 Q. Mr. Woodward asked you a series of questions about
21 omitted text messages, and there was a series of questions
22 surrounding the text messages regarding the cattle prod.

23 Do you remember that?

24 A. Yes.

25 Q. Agent Harris, if we included every message regarding

1 weapons in this case, how long would this case go on for?

2 MR. FISCHER: Objection.

3 MR. WOODWARD: Objection.

4 THE COURT: Sustained.

5 That's a question for me to answer, not for him.

6 BY MR. MANZO:

7 Q. Agent Harris, have we included every message in this
8 case?

9 A. No, sir.

10 Q. Who picks what messages are presented in this case?

11 A. You and the rest of the prosecution team.

12 Q. And who ultimately rules on whether they're admissible?

13 A. The judge.

14 Q. Do you remember Mr. Fischer asked you a series of
15 questions about hunting in Florida?

16 A. Yes. I recall that.

17 MR. MANZO: Ms. Rohde, could you pull up 6870,
18 Slide 3.

19 BY MR. MANZO:

20 Q. Agent Harris, can you read 6870, Slide 3?

21 A. "That's gonna be about it for Tuesday, but they want
22 volunteers for night escorts. If you wanna do it, great.
23 If not, no big deal. Not hunting, just waking people out."

24 Q. Sir, have you ever hunted in Washington, D.C.?

25 A. No, sir. I have not.

1 Q. Are there any hunting grounds in Washington, D.C.?

2 A. I don't live here, but I haven't seen them in the months
3 that I've been here in downtown.

4 Q. When I say hunting, hunting for animals. Are there any
5 animal hunting grounds in Washington, D.C.?

6 A. Not that I know of.

7 Q. On cross-examination, you were asked a series of
8 questions about Mr. Cummings's testimony yesterday. Do you
9 remember that?

10 A. Yes.

11 MR. MANZO: Ms. Rohde, can you please pull up
12 6860.44.

13 BY MR. MANZO:

14 Q. And I'm not going to belabor the point, but can you look
15 at 6860.44 and .45 --

16 MR. MANZO: Sorry. The next message. The next
17 message. And the next message. One more.

18 BY MR. MANZO:

19 Q. Sir, on any of the messages in 6860, is Mr. Cummings on
20 these?

21 A. No, sir.

22 Q. Mr. Fischer asked you a series of questions about a
23 timeline regarding when an arrest is made. Do you remember
24 that?

25 A. Yes, I do.

1 Q. When an arrest is made, do you stop the investigation?

2 A. No, not at all.

3 Q. Why not?

4 A. Because a lot of times there's still evidence to be
5 gathered; additional charges could be added later on down
6 the road based off that evidence. But no, the investigation
7 does not stop. Usually, that's just the beginning of an
8 investigation. It continues.

9 Q. What are some of the reasons to make an arrest quickly?

10 A. Usually if the person is a danger to the public, you
11 know, you want to get them off the street quickly. You also
12 want to attempt to preserve evidence that could be
13 jeopardized if that person is still free.

14 Q. In this case, have you come across evidence that's been
15 destroyed?

16 A. Yes.

17 MR. MANZO: Thank you. No further questions.

18 THE COURT: Okay. Agent Harris, you may step
19 down. Thank you for your testimony, sir.

20 THE WITNESS: Thank you, sir.

21 (Witness excused.)

22 THE COURT: Ladies and gentlemen, we will take our
23 afternoon break. It's 3:30 on the dot. We will resume at
24 3:45. Thank you very much.

25 (Whereupon, the jury exited the courtroom at 3:31

1 a.m. and the following proceedings were had:)

2 THE COURT: Thank you, everyone. We'll get
3 started around 3:45.

4 (Thereupon a recess was taken, after which the
5 following proceedings were had:)

6 THE COURT: Please be seated, everyone.

7 After we conclude today, could I ask counsel to
8 stay behind for a sealed session? It has nothing to do with
9 the case.

10 MR. CRISP: All counsel?

11 THE COURT: Defense counsel can be here if you
12 want. I don't want you to feel like I'm talking about the
13 case with them. I'm not. It's something else entirely.

14 MR. NESTLER: Yes, your Honor. Of course.

15 There is one issue Mr. Woodward and I should flag
16 for the Court before we bring the jury in.

17 THE COURT: Okay.

18 MR. NESTLER: At some point potentially with this
19 witness we did want to play a portion of a jail call from
20 Mr. Meggs. It's him and his son. And his son makes a
21 comment about Biden confiscating all the guns --

22 THE COURT REPORTER: I'm sorry. Confiscating?

23 MR. NESTLER: Yes. About President Biden
24 confiscating all the guns.

25 And Mr. Meggs is making a comment in response, you

1 know, "Lucky for us we lost them all in the fire" or
2 something like that.

3 There are similar messages that he has with
4 Mr. Harrelson about getting rid of all their tools and also
5 a text message chain he has about -- laughing about his gear
6 being lost in a boating accident.

7 This is all in line with Mr. Woodward's cross of
8 Agent Harris about Mr. Meggs not having any guns found at
9 his house. We're about to explore that with this next
10 witness.

11 We intend to -- well, we offered defense counsel a
12 short stipulation to not play the actual jail call, to just
13 read the two or three sentences where this is relevant. I
14 believe Mr. Woodward is not interested in that and would
15 prefer to play the entire call.

16 I don't believe the rest of the call would come in
17 under 106 because the rest of the call does not give any
18 context to that statement. But we can hash that out.

19 THE COURT: Okay. So are you consenting to what
20 is the typical introduction of a jail call?

21 MR. WOODWARD: So this is a difficult question, of
22 course. We disagree -- we'd strenuously disagree with
23 Mr. Nestler's characterization of the remainder of the call.
24 Really, very little of it is not contextual for the
25 statement about guns.

1 Mr. Meggs and his son are talking about the
2 entirety of the reason why he's been detained. And
3 the before and after, this discussion of a house fire that
4 occurred at the Meggs' property, is all very contextual. It
5 all adds insight into why the statement about Biden taking
6 guns away is relevant at all.

7 So if the Court is prepared to allow us to play
8 the entire 15-minute call, then, yes, we're prepared to deal
9 with the acknowledgement that the jury is going to hear that
10 Mr. Meggs is now detained. Or --

11 THE COURT: Well, I'm not sure -- well, I guess
12 I'd have to hear the call, because I don't know if there are
13 comments within the call or conversations in the call that
14 would make it clear that he's presently incarcerated while
15 the call happens.

16 MR. WOODWARD: There are. There are.

17 THE COURT: There are?

18 MR. MANZO: And to be clear, the call occurs in
19 March of 2021. But we're happy to facilitate the Court
20 having the full 15-minute audio, and we can defer on this
21 until tomorrow after the Court has reviewed it.

22 THE COURT: I guess I'd like to hear it all to
23 really determine if it needs to be played in full.

24 I mean, look, I would -- this is not the
25 ordinary -- I shouldn't say "ordinary." This is not like

1 some cases that we have in federal court that there are lots
2 of jail calls, and because of there being lots of jail calls
3 it's unavoidable to let the jury know that somebody is
4 detained pretrial.

5 This is not that case. And so it would be my
6 preference to avoid any reference to Mr. Meggs being
7 detained, in particular if there's any reference to the
8 timing of the call, which would leave the jury with the
9 impression of how long he's been detained, and then raise a
10 whole host of questions about the other Defendants, at least
11 quietly in their own minds, that I'd rather not have them
12 thinking about. Okay?

13 MR. WOODWARD: Okay.

14 THE COURT: So if you all could get me the audio,
15 we can then -- I'll listen to it this evening and we can
16 take it up tomorrow morning.

17 MR. NESTLER: Yes, your Honor. No problem. Thank
18 you.

19 THE COURT: And how long do we think this witness
20 will be? I take it until the end of the day on direct?

21 MR. NESTLER: On direct? No. On direct, 15, 20
22 minutes.

23 THE COURT: Oh, okay. And then you plan to
24 re-call him for the --

25 MR. NESTLER: We can re-call him or a different

1 witness to get into this other issue.

2 THE COURT: Okay.

3 MR. NESTLER: This is the witness from Florida who
4 did the search of Mr. Meggs's house.

5 THE COURT: Okay.

6 THE COURTROOM DEPUTY: Jury panel.

7 (Whereupon, the jury entered the courtroom at 3:52
8 p.m. and the following proceedings were had:)

9 THE COURT: Please be seated, everybody. Welcome
10 back. We are in the homestretch for the day.

11 Mr. Nestler, next witness for the Government.

12 MR. NESTLER: Thank you, your Honor. The
13 Government calls FBI Special Agent Craig Arney, retired.

14 CRAIG ARNEY, GOVERNMENT WITNESS, SWORN.

15 THE COURT: Agent Arney -- Retired Agent Arney,
16 welcome.

17 THE WITNESS: Sir.

18 THE COURT: Have a seat, please.

19 THE WITNESS: Thank you.

20 THE COURT: If you're comfortable testifying with
21 your mask off, please feel free to remove it.

22 THE WITNESS: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY MR. NESTLER:

25 Q. Good afternoon, sir.

1 A. Good afternoon, sir.

2 Q. Could you please state and spell your name for us.

3 A. Craig S. Arney. Last name A-R-N-E-Y.

4 Q. And, Special Agent Arney, how many years did you spend
5 with the FBI?

6 A. Twenty-two years.

7 Q. And is it correct that you retired from the FBI about a
8 year ago?

9 A. Yes.

10 Q. While you were in the FBI, can you walk us through
11 briefly the positions you held within the FBI.

12 A. I started out as a special agent. I was promoted to
13 supervisory special agent, unit chief, assistant section
14 chief and then acting section chief.

15 Q. And approximately how many people does an acting section
16 chief supervise?

17 A. Between 150 and 200 --

18 Q. And --

19 A. -- individuals.

20 Q. Sorry.

21 A. Individuals. Sorry. That would include contractors and
22 support employees.

23 Q. And where were you stationed when you were the acting
24 section chief?

25 A. I was assigned to the operational technology division in

1 Quantico, Virginia.

2 Q. Did there come a time when you stepped down from your
3 management role with the FBI?

4 A. Yes. I took a transfer to the Jacksonville division,
5 Ocala resident agency.

6 Q. Why did you stop being a manager and go back to being a
7 special agent?

8 A. The Bureau affords you one free trip during your course
9 of your career. And I decided to move back to Florida,
10 where I had grown up.

11 Q. And when you moved back to Florida, you said you were in
12 the Jacksonville field office. Is that correct?

13 A. Yes.

14 Q. And was there a particular resident agency within the
15 Jacksonville field office out of which you worked?

16 A. Ocala resident agency.

17 Q. And does the Ocala area of Florida cover where
18 Dunnellon, Florida, is?

19 A. Yes. It's part of our AOR, area of responsibility.

20 Q. Now, Agent Arney, did you have a role in the arrest of
21 an individual named Kelly Meggs on February 17th of 2021 in
22 Dunnellon, Florida?

23 A. I did.

24 Q. At the time he was arrested, did the FBI make a notation
25 about his height?

1 A. Yes.

2 Q. What did the FBI record his height as?

3 A. Six-foot-four.

4 Q. And did the FBI make a notation as to his weight?

5 A. Yes. 267 pounds.

6 Q. On that same date, did you have a role in the search of
7 Mr. Meggs's property in Dunnellon, Florida?

8 A. Yes, I did.

9 Q. What was your role with respect to that search?

10 A. It's as a searching agent.

11 Q. Why was the FBI searching Mr. Meggs's property?

12 A. There was a search warrant issued from the District of
13 Columbia to search his residence.

14 Q. Just generally, what were you and your colleagues
15 looking for when you searched his residence?

16 A. We were looking for the clothing that Mr. and Mrs. Meggs
17 were wearing at -- on January 6th that was captured on
18 surveillance video.

19 Q. And in addition to clothing that you saw on surveillance
20 video, were there any other items you were looking for?

21 A. Any affiliation to the Oath Keepers group as well as
22 communication devices and firearms.

23 Q. Did you locate communication devices at Mr. Meggs's
24 property?

25 A. Yes, we did.

1 Q. And did you locate clothing that resembled Oath Keepers
2 clothing or Oath Keepers paraphernalia?

3 A. Yes.

4 Q. Did you locate any firearms?

5 A. No.

6 Q. You mentioned clothing that Mr. Meggs was wearing on
7 January 6th at the Capitol. Is that correct?

8 A. Yes.

9 Q. Prior to searching his house, did you review any video
10 or photographs to give you a sense of what to look for?

11 A. Yes. I observed still photos as well as video
12 surveillance prior to the search.

13 MR. NESTLER: If we could pull up on the screen
14 Government Exhibit 1051.1. It's already in evidence. And
15 if we could play till about 16 seconds, please, Ms. Rohde.
16 We don't need volume.

17 (Whereupon, segments of Government's Exhibit No.
18 1051.1 were published in open court.)

19 MR. NESTLER: If we could stop it there.

20 If we could rewind for about one second, please.

21 (Whereupon, segments of Government's Exhibit No.
22 1051.1 were published in open court.)

23 MR. NESTLER: Right there.

24 BY MR. NESTLER:

25 Q. Does this video resemble one of the videos you would

1 have seen prior to conducting the search?

2 A. Yes.

3 Q. And the individual in the center frame of this video,
4 can you describe what that person is wearing on their top
5 half?

6 A. It appears to be a ballistic carrier vest with a --

7 Q. And are you familiar with --

8 THE COURT REPORTER: I'm sorry. What vest?

9 THE WITNESS: Ballistic carrier vest.

10 BY MR. NESTLER:

11 Q. And I think you were saying "with a" -- and what's on
12 the ballistic carrier vest?

13 A. Oh, there's a couple of patches that are on it.

14 MR. NESTLER: And if we could pull up
15 Exhibit 1051.3 already in evidence.

16 BY MR. NESTLER:

17 Q. And on the screen here, do you see a couple of patches?

18 A. Yes, I do.

19 Q. Are these some of the patches you were looking for when
20 you searched Mr. Meggs's property?

21 A. Yes.

22 Q. Can you read what the one on the left says?

23 A. The one on the left, "Guardians of the republic," the
24 number 10, "Not on our watch."

25 Q. And what does the patch on the right say?

1 A. "I don't believe in anything. I'm just here for the
2 violence."

3 MR. NESTLER: We can take that down, please,
4 Ms. Rohde.

5 BY MR. NESTLER:

6 Q. Did you locate this patch when searching Mr. Meggs's
7 residence?

8 A. No.

9 Q. Approximately how many people from the FBI and the local
10 sheriff's office were involved in the search of his
11 residence?

12 A. Approximately 19.

13 Q. And approximately how long did the team spend searching
14 the residence?

15 A. Roughly four and a half hours.

16 Q. Can you generally describe the property that you
17 searched?

18 A. Yes. It was a fenced-in compound with an electronic
19 gate. It had a house, a shed, a barn. There was an RV
20 there and three vehicles parked in the driveway.

21 Q. Did you search all of those structures and vehicles?

22 A. Yes.

23 Q. Would you characterize your search as thorough or
24 cursory?

25 A. I would say it was extremely thorough. Yes.

1 Q. Why would the FBI conduct a thorough search?

2 A. It's our policy to conduct a thorough search.

3 THE COURT: Mr. Nestler, I may have missed this,
4 and I apologize. Could you just ask the special agent the
5 date of the search?

6 MR. NESTLER: I'm sorry. Yes.

7 BY MR. NESTLER:

8 Q. February 17th of 2021: Is that the date that the search
9 was conducted?

10 A. Yes.

11 THE COURT: Thank you.

12 MR. NESTLER: Of course.

13 BY MR. NESTLER:

14 Q. While you were searching the property, was there a
15 person there with a camera?

16 A. Yes.

17 Q. Why?

18 A. To document in pictures the search from beginning to
19 end.

20 Q. Is that part of FBI's protocol?

21 A. Yes, it is.

22 Q. Have you reviewed photographs taken by your colleagues
23 during that search?

24 A. Yes.

25 MR. NESTLER: If we could show just the witness

1 and defense counsel 720.53 and .58 through .60.

2 (Whereupon, Government's Exhibit Nos. 720.53 and
3 720.58 through 720.60 were published to the witness.)

4 BY MR. NESTLER:

5 Q. Are those four photographs of items that you recall
6 observing while you were at Mr. Meggs's property on
7 February 17th of 2021?

8 A. Yes.

9 Q. Do they fairly and accurately depict the property and
10 the evidence as you recall them?

11 A. Yes.

12 MR. NESTLER: The Government moves to admit into
13 evidence Exhibits 720.53, .58, .59 and .60.

14 THE COURT: Any objection?

15 MR. WOODWARD: No objection.

16 THE COURT: Those exhibits will be admitted.

17 (Whereupon, Government's Exhibit Nos. 720.53 and
18 720.58 through 720.60 were entered into evidence.)

19 MR. NESTLER: Can we please pull up on the screen,
20 Ms. Rohde, 720.53.

21 BY MR. NESTLER:

22 Q. What are we looking at here in the center of the screen
23 that's green, Agent Arney?

24 A. A polo shirt with a sewn-in decal that says Oath
25 Keepers. Or a patch.

1 MR. NESTLER: And if we could now go to 720.58.

2 BY MR. NESTLER:

3 Q. What are we looking at here?

4 A. This is a telephone with a text message appearing on
5 there.

6 Q. And what's the name of the person that the phone says
7 the message is from?

8 A. Dad.

9 Q. And what did Dad write?

10 A. "They got me."

11 Q. And approximately -- well, what time is being shown on
12 the screen of the phone?

13 A. The screen time is 9:34.

14 Q. And does the message say approximately when the message
15 was received?

16 A. It says one hour ago.

17 MR. NESTLER: And if we could now go to 720.59.

18 BY MR. NESTLER:

19 Q. Do you recall a safe being present in Mr. Meggs's house?

20 A. Yes.

21 Q. Was the safe open or closed when you searched the
22 property?

23 A. I believe the safe was open.

24 Q. Did you locate any firearms in that safe?

25 A. No.

1 MR. NESTLER: We can now go to 720.60.

2 BY MR. NESTLER:

3 Q. What are we looking at here, Agent Arney?

4 A. Those are flags with Oath Keepers on them.

5 Q. Agent Arney, while you were at the house and on
6 Mr. Meggs's property, was there any sign of a fire?

7 A. Not that I observed. No.

8 Q. Was there any sign of fire damage?

9 A. No.

10 MR. NESTLER: We can take this photo down, please.

11 BY MR. NESTLER:

12 Q. Now, let's move forward about six weeks. Okay, Agent
13 Arney?

14 A. Yes.

15 Q. Let's move forward till about April 9th of 2021. After
16 you arrested Mr. Meggs in February of 2021, are you aware of
17 whether he had an attorney named David Wilson?

18 A. I was. Yes.

19 Q. On April 9th of 2021, did you go to Mr. Wilson's law
20 office in Ocala, Florida?

21 A. I did.

22 Q. Who told you to go there?

23 A. You did, sir.

24 Q. And what did I tell you to do while you were there?

25 A. Gather articles of clothing, et cetera, that was to be

1 put into evidence.

2 Q. Did you go to Mr. Wilson's office?

3 A. I did.

4 Q. What did you do while you were there?

5 A. I gathered the clothing and other articles as evidence.

6 Q. Let's go through those items now.

7 Have you recently reviewed them?

8 A. Yes.

9 MR. NESTLER: We'll start with Exhibit 5. If I
10 could ask Special Agent Abrams to pull Exhibit 5 and bring
11 it over to you, Agent Arney.

12 (Special Agent Abrams tenders items to witness.)

13 BY MR. NESTLER:

14 Q. Let's start with the item up on top, if you could, Agent
15 Arney. Could you --

16 MR. NESTLER: Well, first of all, the
17 Government -- let me back up for a second.

18 BY MR. NESTLER:

19 Q. Does this box, Government's Exhibit 5, contain items
20 that you collected from Mr. Wilson's office?

21 A. Yes, sir. Yes, it does.

22 MR. NESTLER: The Government moves into evidence
23 Exhibit 5.

24 MR. WOODWARD: No objection.

25 MS. HALLER: Can we see it?

1 BY MR. NESTLER:

2 Q. Agent Arney, can you stand up, with the Court's
3 permission, and can you hold up the top item and display it
4 to the jury?

5 A. (Complies.)

6 THE COURT: 5 is admitted and can now be shown to
7 the jury.

8 (Whereupon, Government's Exhibit No. 5 was entered
9 into evidence.)

10 MR. NESTLER: Thank you, your Honor.

11 BY MR. NESTLER:

12 Q. Can you please describe -- you can just start with the
13 vest. Can you describe that vest for us?

14 A. This is a ballistic carrier vest.

15 Q. You can sit down. If you can use the microphone, too.

16 A. (Complies.)

17 MR. NESTLER: If we could pull back up on the
18 screen, Ms. Rohde, 1051.1 at about 15 seconds. It's right
19 there.

20 BY MR. NESTLER:

21 Q. Does that vest that you're holding, Exhibit 5, appear
22 consistent with the vest we see on the screen at 1051.1?

23 A. Yes.

24 Q. On the back of that vest, is there a patch?

25 A. Yes, there is.

1 Q. And what does that patch say?

2 A. "Oath Keepers, guardians of the republic," the number
3 10, "Not on our watch."

4 Q. Does that vest have a patch that says: "I'm not here
5 for the violence" -- sorry. I'm just -- "I'm only here for
6 the violence"?

7 A. No, it does not.

8 Q. What's the approximate weight of that vest, Agent Arney?

9 A. These are the ballistic ceramic plates that you can put
10 inside the vest. With both plates in, it runs about 20 to
11 25 pounds.

12 Q. When you received this vest, were the ballistic plates
13 inside of it?

14 A. Yes.

15 Q. Can you explain -- can you hold up one of those plates
16 for the jury? You can put the vest down.

17 A. Yes.

18 Q. Have you ever worn a plate carrier or plate vest?

19 A. Yes, I have.

20 Q. Why?

21 A. As an FBI agent, when we would do searches or arrests,
22 we would put on vests to take people into custody.

23 Q. What are the plates inside of the vest designed to do?

24 A. To slow down or stop high-velocity rounds, projectiles.

25 Q. Bullets?

1 A. Correct.

2 Q. Does wearing a plate carrier with plates have any effect
3 on the wearer's movement?

4 A. Absolutely.

5 Q. In what way?

6 A. It's very hot, uncomfortable and it restricts upper body
7 movement.

8 Q. What are -- as far as you're aware, what are plate
9 carriers with plates designed to do? What kind of
10 adversaries would a person be concerned about if they were
11 wearing those?

12 A. Most commonly the adversary would have a gun of some
13 sort.

14 Q. You can put the plate down.

15 A. (Complies.)

16 Q. Was there also, in Government Exhibit 5, a tactical
17 vest?

18 A. Yes.

19 Q. When you received that from Mr. Meggs's lawyer, did it
20 have any plates in it?

21 A. No.

22 Q. Does that vest have that patch we were talking about
23 that said: "I'm only here for the violence"?

24 A. No, it does not.

25 Q. Inside of that box, is there also a waist pouch?

1 A. Yes.

2 Q. Can you please hold that up for the jury and then tell
3 the jury what a waist pouch is.

4 A. So it just affords the wearer extra pockets to carry
5 additional equipment. Usually it's used for magazines
6 for -- additional magazines for a gun.

7 Q. Thank you. You can put that stuff back in the box.

8 MR. NESTLER: Now we'll go to Government Exhibit
9 6.

10 Agent Abrams, if you wouldn't mind grabbing that
11 and showing it to defense counsel.

12 (Special Agent Abrams tenders items to the
13 witness.)

14 BY MR. NESTLER:

15 Q. And these items in Government Exhibit 6, did you also
16 obtain these from Mr. Meggs's attorney?

17 A. I did.

18 MR. NESTLER: The Government moves into evidence
19 Government Exhibit 6.

20 MR. WOODWARD: No objection.

21 THE COURT: Exhibit 6 will be admitted.

22 (Whereupon, Government's Exhibit No. 6 was entered
23 into evidence.)

24 BY MR. NESTLER:

25 Q. If you could please tell the jury what's inside the box.

1 A. Three helmets.

2 Q. And how would you characterize these helmets?

3 A. One helmet in particular has additional weight which I
4 believe has some ballistic capability to it.

5 Q. What does it mean when a helmet has ballistic
6 capability?

7 A. So it provides the wearer with additional layers of
8 protection against a high-velocity projectile.

9 Q. And do these helmets have any patches on them?

10 A. Yes. One has an Oath Keepers patch on the side. And
11 there's a third helmet that also has an Oath Keepers patch
12 on the side.

13 Q. Thank you, Agent Arney.

14 MR. NESTLER: We can take that down, please.

15 Now we'll go to Government Exhibit 16.

16 While we're doing that, the Government is going to
17 move into evidence Government Exhibit 1107 pursuant to a
18 business records certification.

19 MR. WOODWARD: No objection.

20 THE COURT: 1107 will be admitted.

21 (Whereupon, Government's Exhibit No. 1107 was
22 entered into evidence.)

23 MR. NESTLER: Can we put on the screen, Ms. Rohde,
24 Government Exhibit 1107, which, pursuant to a business
25 records certification, is a photograph from January 5th of

1 2021.

2 BY MR. NESTLER:

3 Q. Do you see the photograph on the screen, Agent Arney?

4 A. I do.

5 Q. And do you see the person in the middle wearing a plate
6 carrier?

7 A. Yes.

8 Q. Is that plate carrier consistent with the ones -- one of
9 the ones we just saw in Exhibit 5?

10 A. It is.

11 Q. And now if we could show you Government Exhibit 16.

12 (Special Agent Abrams tenders items to the
13 witness.)

14 BY MR. NESTLER:

15 Q. Are these items that you recovered from Mr. Meggs's
16 lawyer?

17 A. Yes.

18 MR. NESTLER: The Government moves into evidence
19 Government Exhibit 16.

20 MR. WOODWARD: No objection.

21 THE COURT: 16 will be admitted.

22 (Whereupon, Government's Exhibit No. 16 was
23 entered into evidence.)

24 BY MR. NESTLER:

25 Q. If you could please display them to the jury and tell us

1 what they are.

2 A. They're neck gaiters with an American flag symbol on
3 them.

4 Q. What's a neck gaiter?

5 A. It's commonly worn around the neck or face.

6 Q. The neck gaiters that you're holding up now, are they
7 consistent with the one being worn on this person here in
8 Government Exhibit 1107?

9 A. Yes.

10 MR. NESTLER: Finally, let's move to Government
11 Exhibit 17.

12 (Special Agent Abrams tenders item to the
13 witness.)

14 BY MR. NESTLER:

15 Q. Is Government Exhibit 17 also an item you recovered from
16 Mr. Meggs's lawyer?

17 A. Yes, it is.

18 MR. NESTLER: The Government moves into evidence
19 Exhibit 17.

20 MS. HALLER: No objection.

21 THE COURT: 17 will be admitted.

22 (Whereupon, Government's Exhibit No. 17 was
23 entered into evidence.)

24 BY MR. NESTLER:

25 Q. Can you please display it for the jury, Agent Arney?

1 A. (Complies.)

2 Q. And can you read the back of it for us.

3 A. Sure. Across the top, it says: "Oath Keepers.
4 Guardians of the republic. Not on our watch. Established
5 April 19th, 2009. Lexington Green, Mass -- or MA."

6 Q. And what does the size on the inside label say?

7 A. This is triple extra large.

8 Q. Thank you, Agent Arney.

9 MR. NESTLER: If you can grab that, Agent Abrams.
10 Thank you.

11 Now, let's talk about firearms briefly, Agent
12 Arney.

13 If we can pull up on the screen 4801.5, already in
14 evidence.

15 BY MR. NESTLER:

16 Q. Do you see in this photograph Kelly Meggs, Connie Meggs
17 and Zachary Meggs?

18 A. I do.

19 Q. Do you see them carrying firearms or holding firearms?

20 A. Yes.

21 Q. Did you locate any of those firearms when you searched
22 their property in February of 2021?

23 A. No.

24 MR. NESTLER: If we could pull up now Government
25 Exhibit 4807.3, already in evidence. And if we could zoom

1 in on the top portion, please, until -- right there is
2 perfect.

3 BY MR. NESTLER:

4 Q. Do you see --

5 MR. NESTLER: I see Ms. Rohde was right the first
6 time.

7 BY MR. NESTLER:

8 Q. Do you see where Kelly Meggs says, on September 16th of
9 2020: "My wife, son and I all have CORE rifle systems,
10 truck guns, like a smaller AR, shoots 223/556"?

11 A. Yes, I do.

12 Q. Do you know what a CORE rifle system is?

13 A. It's an assault rifle.

14 Q. And do you know what 223/556 is?

15 A. It's a diameter of a bullet.

16 Q. And do you see where Mr. Meggs also wrote: "I also have
17 an AK that shoots 762"?

18 A. Yes.

19 Q. What's an AK?

20 A. It's a Russian assault rifle.

21 Q. And what's 762?

22 A. Another diameter measurement of a round.

23 Q. Did you recover any firearms that resembled the firearms
24 mentioned here from Mr. Meggs's property?

25 A. No.

1 Q. Did you recover any firearms like the firearms mentioned
2 here from Mr. Meggs's lawyer?

3 A. No.

4 MR. NESTLER: No further questions.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. WOODWARD:

8 Q. Thank you, Special Agent. 22 years in the service?

9 A. Yes, sir.

10 Q. Thank you for that.

11 A. Thank you.

12 Q. And we appreciate your coming here today. Just a couple
13 of questions.

14 A. Yes, sir.

15 Q. I recall you testifying that, when you searched
16 Mr. Meggs's house, you were looking for -- forgive me if I
17 misquote you -- but articles of clothing related to the Oath
18 Keepers?

19 A. Yes, sir. Any affiliation to the Oath Keepers.

20 Q. And you found and showed the jury several such articles,
21 including T-shirts?

22 A. Yes.

23 Q. Flags?

24 A. Yes.

25 Q. In fact, do you recall that the FBI seized the T-shirt

1 that Mr. Meggs was wearing that day?

2 A. That I didn't recall.

3 Q. No firearms in the house, however?

4 A. Correct.

5 MR. WOODWARD: Nothing further.

6 THE COURT: Any redirect?

7 Oh, I should ask, any other cross-examination?

8 MR. BRIGHT: No, sir.

9 THE COURT: Any redirect?

10 MR. MANZO: The Government calls --

11 MR. NESTLER: Sorry. No, your Honor.

12 THE COURT: I appreciate the enthusiasm.

13 All right. Agent Arney, thank you for your time
14 and your testimony. Safe travels home, sir.

15 THE WITNESS: Thank you very much, sir.

16 (Witness excused.)

17 THE COURT: Now Mr. Manzo.

18 MR. MANZO: We call Jenni Banks, FBI agent, to the
19 stand.

20 Apologies for the delay. We didn't expect the
21 short cross.

22 THE COURT: I'm sorry?

23 MR. MANZO: Apologies for the delay. We did not
24 expect the short cross.

25 JENNIFER BANKS, GOVERNMENT WITNESS, SWORN

1 THE COURT: Agent Banks, welcome. Have a seat.
2 Feel free to remove your mask, please.

3 THE WITNESS: Thank you.

4 DIRECT EXAMINATION

5 BY MR. MANZO:

6 Q. Good afternoon, Agent. Can you please introduce
7 yourself to the jury by stating and spelling your name.

8 A. My name is Jennifer Banks, J-E-N-N-I-F-E-R, B-A-N-K-S.

9 Q. What do you do for a living, ma'am?

10 A. I'm a special agent with the FBI.

11 Q. How long have you been with the FBI?

12 A. February will be 20 years.

13 Q. And what positions have you held?

14 A. Well, I was a special agent up until September 1st when
15 I was promoted to supervisory special agent.

16 Q. And what have your duties been previously as a special
17 agent?

18 A. I have investigated white-collar crime for a couple of
19 years, violent crime, drug and gang crime, and a little bit
20 of counterterrorism years ago.

21 Q. At some point did you start working on the FBI CAST
22 team?

23 A. Yes. In May of 2011, I was certified as a CAST asset.

24 CAST, C-A-S-T, is cellular analysis survey team. I was
25 certified in May of 2011.

1 Q. And what does the CAST team do?

2 A. Most of us that are certified have worked violent crime
3 or gangs and have a lot of experience looking at cell phone
4 records from companies like Verizon, T-Mobile, Sprint. And
5 we look at those records and use the cell site information
6 in those records to determine a general location of where a
7 phone was historically. And we also use data in real time
8 to locate, you know, missing kids or fugitives or,
9 unfortunately, sometimes the deceased.

10 Q. How long have you worked with cell phone records?

11 A. I started using records in my investigations in 2006, in
12 particular, the cell site records. Tolls have -- I've
13 always used those, all 20 years.

14 Q. When you say tolls, what do you mean?

15 A. Sorry about that. That would just be who a phone number
16 is calling and who's calling it, but without the cell site
17 information.

18 Q. Have you received any specialized training?

19 A. Yes. When I was accepted on the CAST team, or I was at
20 least admitted into our training in 2011, I received over
21 200 hours in additional training on cellular frequencies,
22 the different cellular networks, in addition to training
23 from the service providers on how their records are produced
24 and how to read them. That was part of my initial training.

25 And then I've gone to some additional schools on

1 radio frequency and the cellular networks, as well as every
2 year we have an annual certification course that we have to
3 take that's sponsored by the FBI.

4 Q. How many call detail records do you think you've
5 analyzed in your career?

6 A. Thousands.

7 Q. And have you done that for the FBI or other law
8 enforcement agencies as well?

9 A. My requests come from all law enforcement agencies.

10 Q. Have you ever testified at the request of a defense
11 attorney?

12 A. Yes. One time, actually, in Seattle. I can't remember
13 the particulars, but yes.

14 Q. Have you given any trainings in cell site analysis?

15 A. Yes. Probably an average now once a month. But I train
16 law enforcement.

17 Q. And what do these trainings look like? What are you
18 trying to impart?

19 A. We teach them how to request, through proper legal
20 process, the actual cell phone records from the providers
21 and then, once you get those records, how to illustrate
22 those on a map to help the user of them determine where a
23 phone was located, or is located.

24 Q. Have you ever testified in court as an expert?

25 A. Yes.

1 Q. Approximately how many times have you been qualified as
2 an expert?

3 A. I believe it's over 30 now.

4 Q. When was the last time you testified in court?

5 A. Yesterday.

6 Q. Were you qualified as an expert?

7 A. Yes. Yes.

8 Q. What jurisdiction was that in?

9 A. The -- King County in Seattle, Washington.

10 Q. Have you testified in state courts as well?

11 A. Yes. That was state court. And both state and federal
12 courts I've testified in.

13 MR. MANZO: Your Honor, at this point, I'd seek to
14 have Agent Banks qualified as an expert in cell site
15 technology and analysis.

16 MR. FISCHER: No objection.

17 THE COURT: Agent Banks will be recognized as an
18 expert in cell site technology and analysis.

19 Ladies and gentlemen, let me just advise you of
20 something, which is that there are some witnesses who,
21 because of their expertise, qualify to provide opinion
22 testimony. If scientific, technical or otherwise
23 specialized knowledge might assist a jury in understanding
24 the evidence or in determining a fact in issue, a witness
25 who possesses knowledge, skill, experience, training or

1 education may testify and state an opinion concerning such
2 matters.

3 You are not bound to accept this witness's
4 opinion. If you find that the opinion is not based on
5 sufficient education or experience, that the reasons
6 supporting the opinion are not sound or that the opinion is
7 outweighed by other evidence, you may completely or
8 partially disregard the opinion. You should consider this
9 evidence with all the other evidence in the case and give it
10 as much weight as you think it fairly deserves.

11 BY MR. MANZO:

12 Q. Agent Banks, on your screen in front of you, do you have
13 Government Exhibit 9000?

14 A. I'm sorry. Could you repeat that? Was that a question?

15 Q. Yes. On the screen in front of you, do you have
16 Government Exhibit 9000? Do you recognize what that is?

17 A. Oh, I'm sorry. Yes. I see it's 9000. Okay.

18 Q. What is 9000? What is this report?

19 A. This is the cover page of my report.

20 MR. MANZO: Your Honor, we'd seek to publish this
21 to the jury as the agent testifies.

22 THE COURT: Any objection?

23 MR. BRIGHT: No, sir.

24 THE COURT: Government Exhibit 9000 will be
25 admitted.

1 (Whereupon, Government's Exhibit No. 9000 was
2 entered into evidence.)

3 MR. MANZO: Thank you.

4 BY MR. MANZO:

5 Q. Agent --

6 MR. MANZO: Can we go to the second page of this
7 report.

8 BY MR. MANZO:

9 Q. Can you walk the jury through what the second page of
10 your report says generally here?

11 A. So this page is just an overview of what I'm doing in
12 the report, the pages that follow in the report.
13 Specifically, I give a brief background of how I got
14 involved in the investigation and then kind of explaining
15 how I get records, compare them to a list, put them on a map
16 to show historically where a phone is.

17 Q. And as a part of your work on this case, have you
18 prepared or reviewed phones that you're not going to talk
19 about today?

20 A. Yes.

21 Q. And to the best of your knowledge, you have provided
22 those to our prosecution team. Correct?

23 A. Correct.

24 Q. And what is the methodology of this report?

25 A. In order to do a historical cell site analysis, I need

1 the call records from the phone company, which I'll refer to
2 as CDR, call detail record. That record shows me date and
3 time of a call, who the parties involved were as far as the
4 phone number goes, how long the call might be, what cell
5 site was used at the beginning of the call, and potentially
6 at the end, depending on the carrier, the provider.

7 I take those records. I combine it with the tower
8 lists that are obtained from the service providers, meaning
9 I can look at a case in January -- what month is it? --
10 October of 2022 that happened in January of 2020. And if
11 that's the case, I need to look at where the towers were in
12 January of 2020. So I need the tower makeup as it was at
13 the time of an incident or of analysis.

14 So I take the tower list, the CDR, and I combine
15 them and review them both together and create a map that
16 depicts where a phone was historically during the time
17 period I'm requested to analyze.

18 Q. And were you able to determine certain cell site
19 locations based on the time of the report that you created
20 here?

21 A. Yes.

22 MR. MANZO: Going forward now to the next page,
23 please.

24 BY MR. MANZO:

25 Q. Can you give an example or tell the jury what a cell

1 tower is?

2 A. Yes. So a brief overview of what I'm also doing when
3 I'm comparing those records is I'm trying to understand what
4 the cellular network looked like from each provider. So in
5 order to do that, you need to understand a little bit about
6 what towers look like. So this -- is this posted for the
7 jury?

8 Q. Yes.

9 A. Okay. So there's pictures here of examples of several
10 different types of cell towers. The one we're most familiar
11 with seeing is the one on the top left that has sort of a
12 cloudy background in it. That one is like your typical mono
13 pole in the ground with an array of antennas around it.

14 The other ones are just illustrative to show you
15 that they can be kind of anywhere. You may not know there's
16 a tower somewhere that's providing you service.

17 Here in D.C. we have them very close together.
18 I've worked here -- I worked here for ten years at the
19 beginning of my career and got very comfortable with where
20 they were all located. So they all, more than likely, are
21 on a building here or just sort of embedded into the façade
22 of a building, too. So this page is to show you what they
23 might look like.

24 MR. MANZO: Ms. Rohde, can we go to the next page.

25

1 BY MR. MANZO:

2 Q. Can you talk about sectors and orientation?

3 A. So no matter what they might look like -- we'll fall
4 back to that mono pole, that tower in the ground -- because
5 all of the antennas on a tower are focused around a specific
6 latitude and longitude point. From that, the providers will
7 set up an array of antennas around it to provide a
8 360-degree of coverage around that point.

9 They might do that with one antenna and provide an
10 omni-directional tower. But most likely, or most common, is
11 a three-sector tower that -- the three into 360 is
12 120-degree sectors. So we'll split that circle in three.

13 And so, generally, each sector or each antenna
14 that's facing a certain sector provides 120 degrees of
15 coverage, or a third of that circle.

16 So the companies label each of those antennas 1, 2
17 or 3. This picture shows the sector 1. In this case, it
18 would be oriented at 12 o'clock on a clock face or, as the
19 records tell us, or the tower lists tell us, at zero degrees
20 north. Sector 2 would be at 120 degrees. Sector 3, at 240.

21 So the beam of that antenna -- think of a
22 flashlight. I'm pointing it at zero degrees. But if you're
23 off 60 degrees, you can still see it; it's just not as
24 bright as when you're in front of it.

25 So that's sort of how -- that's kind of a simple

1 way to understand the frequencies that are coming off a
2 tower, is if you're kind of right in front of it, clear line
3 of sight, you get the strongest part of that signal. And it
4 will dissipate as you move away from it or out of its line
5 of sight.

6 Q. Thank you.

7 MR. MANZO: Ms. Rohde, can we go to the next page.

8 BY MR. MANZO:

9 Q. Is this basically the sector illustration that you were
10 talking about here?

11 A. Yes. So in my maps, you will see, depending on what
12 degree azimuth, or degree that that antenna was pointed at,
13 I will illustrate in my maps that you'll see in the next
14 pages by this wedge with a shaded arc. And it's not meant
15 to indicate that that's the coverage area; it's just where
16 that flashlight is pointed.

17 So if I see cell site, you know, 1, 2, 3, 4 in a
18 subject's -- excuse me -- a target phone's records and I
19 look up that tower in the tower list, it will tell me it's
20 at zero degrees, for example, and I will draw that
21 zero-degree wedge on my map.

22 Q. Thank you.

23 MR. MANZO: Can we go to the next page.

24 BY MR. MANZO:

25 Q. Is this what you're talking about in terms of sector

1 mapping illustration?

2 A. Yes. And it will indicate whether it's an incoming call
3 or an outgoing call. It's not -- the drawing doesn't change
4 depending on what type of activity it was on the records.
5 It's just meant to show that that phone used resources on
6 that specific cell site.

7 MR. MANZO: Ms. Rohde, can we go to the next page,
8 please.

9 BY MR. MANZO:

10 Q. So in preparation for your testimony here today, did we
11 ask you to analyze a phone number ending in 6558 associated
12 with Stewart Rhodes for the period of January 3, 2021, to
13 January 5, 2021?

14 A. Yes.

15 Q. What is this map currently in front of the jury?

16 A. So this map is to show an overview of the movement of
17 that phone from January 3rd to January 5th. You don't see
18 those wedges on this at this point because there's -- at
19 this point, I'm just trying to show more of an overview of
20 the long movement that this phone made.

21 THE COURT REPORTER: Did you say long or lawn?

22 THE WITNESS: Long. The distance it moved.

23 So the red dots indicate the specific
24 lat/longitude of a tower.

25

1 BY MR. MANZO:

2 Q. And so where did the phone number ending in 6558 begin
3 on 1-3-21?

4 A. So this phone was in Granbury, Texas. One of the last
5 registrations I saw in that area was at 1:59 p.m. on
6 January 3rd, 2021. And it moved to D.C. -- I'm sorry. You
7 can actually see, as you follow these red dots, we have some
8 cell site activity up until -- as the phone moves east
9 towards Shreveport.

10 There's no activity after that until we get
11 towards Mississippi, up through Birmingham, up through
12 Tennessee and into Virginia, and ultimately in D.C. on
13 January 5th, 2021, at 2:38 p.m.

14 Q. When you say "activity," can you describe what you mean
15 by that to the jury? What types of activity might create a
16 record in a cell phone tower?

17 A. So depending on what service provider you're dealing
18 with, you can get different types of things. So this phone
19 is a Verizon phone. So on this map, we're largely looking
20 at voice calls.

21 MR. MANZO: Can we go to the next slide,
22 Ms. Rohde.

23 BY MR. MANZO:

24 Q. So we also asked you to perform an analysis for the
25 phone number ending in 6843, associated with Ed Vallejo from

1 January 2 to January 5, 2021. Is that correct?

2 A. Correct.

3 Q. Can you describe for the jury what this analysis states?

4 A. So this is a similar analysis of -- looking at the
5 overview of the long-range distance this phone moved over
6 the course of these days.

7 Starting on January 2nd in 2021, this phone was
8 north of Phoenix. So this was the first activity I had
9 showing that phone out of that area.

10 The phone began to move to the east. You can see
11 it almost follows those yellow lines, which are the
12 interstates, and moves through Arkansas, then to Tennessee,
13 up through Virginia, and ultimately in D.C. on January 5th,
14 2021, at 12:52 p.m.

15 Q. Thank you.

16 MR. MANZO: Ms. Rohde, can we go to the next page.

17 BY MR. MANZO:

18 Q. Agent Banks, we also asked you to perform an analysis
19 for the phone numbers associated with Kelly Meggs, Connie
20 Meggs, Kenneth Harrelson, Joseph Hackett, Jason Dolan and
21 Caleb Berry on January 4th, 2021, in the area of Whiteville,
22 North Carolina.

23 A. That's correct.

24 Q. Did you do that analysis?

25 A. I did.

1 MR. MANZO: Can we go to the next page.

2 BY MR. MANZO:

3 Q. What are we looking at here?

4 A. This is the phone number ending in 0600. And when I
5 reviewed the range of records that I had, I was able to
6 determine that -- and I -- excuse me. I looked from
7 January 4th at 5:00 p.m. to January 6th at 6:00 a.m. And in
8 that time, the phone had registrations on towers in
9 Whiteville, North Carolina, at the times noted on this
10 picture, in this illustration.

11 THE COURT REPORTER: I'm sorry. Just for clarity
12 of the record, you said January 6th. Is that what you meant
13 to say?

14 THE WITNESS: No. I meant to say January 5th at
15 6:00 a.m. Thank you.

16 BY MR. MANZO:

17 Q. And the address of 1880 Dock Road, Whiteville, North
18 Carolina, did we give that to you or did you give that to
19 us? Why is it on the map?

20 A. That was provided to me.

21 Q. Do you know any significance of what that address is?

22 A. It's someone's home. But I don't know whose.

23 Q. And just to be clear, have you been intimately involved
24 in the case other than performing cell site analysis?

25 A. No.

1 MR. MANZO: Can we go to the next page, please.

2 BY MR. MANZO:

3 Q. What are we looking at on Page 11 of your deck?

4 A. This is a phone ending in 8614 that I'm told belongs to
5 a Connie Meggs. That phone had activity in Whiteville,
6 North Carolina, on January 5th at 12:02 a.m.

7 Q. Can you just describe to the jury what that two-legged
8 triangle means again?

9 A. So the --

10 Q. And circle it on your screen.

11 A. Oh, yes. Of course. So the red dot is a Verizon tower.
12 That's that lat/longitude.

13 The callout box you see indicates an E-node-B, No.
14 156405-3. So that was the number of the cell -- unique cell
15 ID for -- part of it, for this device that was used on
16 January 5th at 12:02 a.m.

17 So I looked that up in the tower list, found the
18 lat/longitude and the orientation of that sector 3, and
19 determined it was facing -- I think this one is, like, 355
20 degrees. It's just off zero degrees, if my memory serves me
21 correct.

22 Q. Thank you.

23 MR. MANZO: Can we go to the next page.

24 BY MR. MANZO:

25 Q. Agent Banks, what are we looking at on Page 12?

1 A. This is a phone number ending in 0136 that I am told was
2 used by Kenneth Harrelson. This phone had activity in the
3 area of Whiteville, North Carolina, on January 4th in the
4 later evening hours through January 5th to the morning.

5 Q. And I'm looking at the numbers on the right, and it
6 seems like there's a number of entries from 1:00 a.m. all
7 the way through till 4:34 a.m. Does that mean that the
8 phone was being actively used to call people during that
9 period?

10 A. No. The items in bold are actually data sessions. So
11 when we use our phone to connect to the data network, that's
12 what I'm showing here. This is an AT&T phone, so they
13 provide -- they provide all that information to us with our
14 request.

15 The 9:57 p.m. is not bolded, so that is a voice or
16 a text.

17 You see all this -- you see activity every 10, 20
18 minutes perhaps. It could be user-driven, but it could also
19 be an app in the background. You know, your Snapchat or
20 something is constantly updating. I wouldn't know unless I
21 could look at a phone. Or you can request -- from AT&T, you
22 can request a flow logic report where it will tell you
23 website access sometimes.

24 Q. Thank you.

25 MR. MANZO: And, Ms. Rohde, can we go to the next

1 page.

2 BY MR. MANZO:

3 Q. What are we looking at on Page 13?

4 A. This is phone number ending in 6396 that was used by a
5 Joseph Hackett. This phone also had activity near
6 Whiteville, North Carolina, on January 4th, in the evening
7 hours, through the morning hours of January 5th.

8 Q. Thank you.

9 MR. MANZO: Ms. Rohde, can we go to the next page.

10 BY MR. MANZO:

11 Q. What are we looking at on Page 14?

12 A. Again, this is a phone number ending in 6217 that was
13 used by a Jason Dolan. This phone had activity on towers in
14 Whiteville, North Carolina, on the evening hours of
15 January 4th into the morning hours of January 5th.

16 MR. MANZO: Can we go to the next page, Ms. Rohde.

17 BY MR. MANZO:

18 Q. What are we looking at here on Slide 15?

19 A. The same thing as the other phones. This one is ending
20 in 2552, used by a Caleb Berry. This phone had activity in
21 Whiteville, North Carolina, on the evening hours of
22 January 4th into the morning hours of January 5th.

23 Q. I'm looking at the sector analyses here. They look
24 different. Can you tell the jury what's going on here?

25 A. So this is showing this phone coming into the -- it just

1 had more activity to plot or to map. It shows the phone
2 coming into the area, gets down near that White [sic] Dock
3 Road address, and appears to be using multiple sectors on
4 that tower. Again, that would indicate to me that phone
5 wasn't necessarily stationary the whole time, and then
6 begins to move out at 5:00 in the morning out of Whiteville,
7 North Carolina.

8 Q. Thank you.

9 MR. MANZO: Ms. Rohde, can we go to the next page.

10 BY MR. MANZO:

11 Q. Did we also ask you to prepare an analysis here for
12 trial for phone numbers that were in the vicinity -- not
13 phone numbers, but phones pinging off towers in the vicinity
14 of 122 North Glebe Road, Arlington, Virginia, between
15 January 5 and 7, and specifically for the phones associated
16 with Jessica Watkins, Donovan Crawl, Bennie Parker, Sandra
17 Parker, Thomas Caldwell, Connie Meggs, Kenneth Harrelson,
18 David Moerschel, Caleb Berry, Ed Vallejo, Todd Kandarlis and
19 Jeffrey Stamey?

20 A. Yes.

21 Q. And did you perform that analysis?

22 A. Yes.

23 MR. MANZO: Can we go to the next page, please.

24 BY MR. MANZO:

25 Q. What are we looking at at Page 17?

1 A. This is the number ending in 8551 believed to be used by
2 Jessica Watkins. I had activity near the Comfort Inn on
3 Glebe Road in Arlington at 6:12 on January 5th, 2021. That
4 was 6:12 p.m. It had another activity at 8:35 p.m. and then
5 one at 5:04 the next morning, on January 6th.

6 Q. Agent, are you aware of the importance or unimportance
7 of the Comfort Inn in this case?

8 A. I believe it was a meeting location for several people.

9 Q. But again, you're not intimately involved in the details
10 of the case other than the cell site analysis?

11 A. No. I just assumed, because they wanted to know if they
12 were all there.

13 Q. Fair enough. Thank you.

14 MR. MANZO: Can we go to the next page, Ms. Rohde.

15 BY MR. MANZO:

16 Q. What are we looking at at Page 18?

17 A. This is the number ending in 7949 showing this phone
18 using resources near the Comfort Inn Glebe Road Hotel on
19 January 5th at 5:02 p.m. through 7:24 p.m.

20 MR. MANZO: Can we go to the next page, Ms. Rohde.

21 THE WITNESS: This is --

22 BY MR. MANZO:

23 Q. So on Page 19, what are we looking at?

24 A. This is the number ending in 7949 believed to be used by
25 Donovan Crowl that had -- that used cellular resources near

1 the Comfort Inn Glebe Road -- on Glebe Road on January 6th
2 at 8:07 p.m. to January 7th at 11:21 a.m.

3 Q. And can you just circle the location on the map where
4 the Comfort Inn at Glebe Road is?

5 A. (Complies.)

6 Q. Thank you. And for the record, you just circled the
7 blue flag in the middle of the page?

8 A. Yes.

9 MR. MANZO: Ms. Rohde, can we go to the next page.

10 BY MR. MANZO:

11 Q. What are we looking at on Page 20?

12 A. This is illustrating the number ending in 5576, believed
13 to be used by Bennie Parker, on January 5th, 2021, at 5:15
14 p.m. to 6:49 p.m.

15 MR. MANZO: Can we go to the next page, Ms. Rohde,
16 please.

17 BY MR. MANZO:

18 Q. What are we looking at here?

19 A. This is that same phone number, now again on January 6th
20 at 6:20 p.m. into the morning of January 7th at 11:01 a.m.

21 MR. MANZO: Ms. Rohde, can we go to the next page.

22 BY MR. MANZO:

23 Q. What are we looking at here on Page 22?

24 A. This is the phone number ending in 6790, believed to be
25 used by Sandra Parker, that was used on January 5 at 11:40

1 p.m.

2 MR. MANZO: Can we go to Page 23.

3 BY MR. MANZO:

4 Q. What are we looking at on Page 23?

5 A. This is a phone number ending in 3957 believed to be
6 used by Thomas Caldwell that was using resources at the
7 Comfort Inn -- excuse me -- believed to be using cellular
8 resources providing service to the Comfort Inn on
9 January 6th, 2021, from 4:46 a.m. to 5:04 a.m.

10 Q. Now, if somebody turned off their phone or took the
11 battery out of their phone, would that phone still hit off a
12 tower in any way?

13 A. No.

14 Q. Again, can you tell based on this information whether
15 these are voice calls, text messages or data sessions?

16 A. These are voice or SMS.

17 MR. MANZO: Can we go to the next page.

18 MR. BRIGHT: I'd ask her to repeat that, your
19 Honor. The second part sounded muffled.

20 THE WITNESS: I said those are voice or SMS.

21 MR. BRIGHT: Thank you.

22 BY MR. MANZO:

23 Q. What are we looking at at Page 24?

24 A. This is the phone number ending in 3957, believed to be
25 used by Thomas Caldwell. This phone used cellular resources

1 providing service to the Comfort Inn from January 6th -- on
2 January 6th, 2021, at 5:29 p.m. to January 7th, 2021, at
3 11:00 a.m.

4 MR. MANZO: Can we go to the next page.

5 BY MR. MANZO:

6 Q. What are we looking at here on Slide 25?

7 A. This is the phone number ending in 0600, believed to be
8 used by Kelly Meggs, on January 5th at 11:44 a.m., using a
9 tower providing service to the Comfort Inn on Glebe Road.

10 MR. MANZO: Can we go to the next page.

11 BY MR. MANZO:

12 Q. What are we looking at on Page 26?

13 A. This is the phone ending in 8614, believed to be used by
14 Connie Meggs, from January 5th, 2021, at 11:33 a.m. to 12:05
15 p.m., using the cell tower that would provide service to the
16 Comfort Inn on Glebe Road in Arlington.

17 MR. MANZO: Can we go to Page 27.

18 BY MR. MANZO:

19 Q. What are we looking at on Page 27?

20 A. This is a phone number ending in 0136, believed to be
21 used by Kenneth Harrelson, on January 5th, 2021, at 11:31
22 a.m.

23 MR. MANZO: Can we go to Page 28.

24 BY MR. MANZO:

25 Q. What are we looking at here?

1 A. This is that same phone number for -- ending in 0136 on
2 January 7th at 9:08 a.m. to 9:43 a.m., using a cell tower
3 that's to the northeast of the Comfort Inn on Glebe Road in
4 Arlington.

5 Q. Now, when a cell phone is in your pocket, for example --
6 and let's say there's no data sessions going on -- will that
7 phone be hitting off a tower or will that phone not be
8 communicating with a tower that would show up on your
9 records?

10 A. Similar to the earlier question about overnight, if your
11 phone is there and apps are in the background, it will still
12 register with the tower -- excuse me -- it will still use
13 resources if there are active data sessions trying to
14 communicate with the network.

15 Q. If there's no active data sessions, would any records
16 appear?

17 A. Right. If you had everything closed out and you weren't
18 making any calls or texts, then no.

19 MR. MANZO: Can we go to Slide 29.

20 BY MR. MANZO:

21 Q. Can you describe what we're looking at in Slide 29?

22 A. This is a phone number ending in 9475, used by David
23 Moerschel, from January 5th, 2021, at 12:00 p.m. to 12:30.
24 There were two cell site registrations on a tower that would
25 provide service to the Comfort Inn on Glebe Road in

1 Arlington.

2 MR. MANZO: Can we go to Page 30.

3 BY MR. MANZO:

4 Q. What are we looking at here?

5 A. This is illustrating a phone number ending in 2552, used
6 by -- believed to be used by Caleb Berry, on January 5th at
7 11:42 a.m. to 12:03 p.m., Using a cell tower that provides
8 service to the Comfort Inn on Glebe Road in Arlington.

9 MR. MANZO: Page 31.

10 BY MR. MANZO:

11 Q. What are we looking at here?

12 A. This is the phone ending in 2552 continued into January
13 7th at 7:47 a.m. to 8:00 a.m. That phone used two cellular
14 towers, one that would provide coverage to the Comfort Inn
15 and one off to the east that would provide coverage in that
16 general area.

17 MR. MANZO: Can we go to Slide 32.

18 BY MR. MANZO:

19 Q. What are we looking at on Slide 32?

20 A. This is a phone number ending in 4843, believed to be
21 used by Ed Vallejo, on January 5th, 2021, at 12:52 p.m.
22 through 12:45. We see that phone used cell site resources
23 that provide coverage to the Comfort Inn on Glebe Road. And
24 then at 3:31 that phone has moved to the east towards the
25 District of Columbia.

1 MR. MANZO: Can we go to the next page.

2 BY MR. MANZO:

3 Q. What are we looking at on Page 33?

4 A. This is also the phone ending in 6843 used by Ed
5 Vallejo. This is now showing January 6th at 7:28 in the
6 morning to 11:36 a.m. There are four registrations on a
7 tower that would provide service to the Comfort Inn on Glebe
8 Road.

9 MR. MANZO: Can we look at Page 34.

10 BY MR. MANZO:

11 Q. What are we looking at on Page 34?

12 A. This is the phone number ending in 6843, again, for Ed
13 Vallejo, now showing on January 6th. In the timeframe from
14 2:00 p.m. to 10:00 p.m., that phone was using resources that
15 would provide coverage to the Comfort Inn on Glebe Road.
16 And then, by 9:08, that phone has moved out to the west
17 towards Falls Church.

18 Q. Now, on the right, on your map here, it says: "62 SMS,
19 3 voice."

20 What does that mean?

21 A. That -- because there was quite a bit of activity in the
22 2:32-p.m.-to-9:00-p.m. timeframe, I just summarized it by
23 saying how many. So there were 62 text messages and three
24 voice calls.

25 MR. MANZO: Can we go to the next page.

1 BY MR. MANZO:

2 Q. What are we looking at here on Page 35?

3 A. This phone is also ending in 6843 for a phone used by Ed
4 Vallejo. We're looking at January 6th at 11:00 p.m. now.
5 That phone is in the East Falls Church area and moved
6 towards the Comfort -- towards the cellular towers that
7 would provide service to the Comfort Inn in Arlington at
8 11:15 p.m. up until the 12:25 a.m. on the 7th.

9 MR. MANZO: Can we look at Page 36.

10 BY MR. MANZO:

11 Q. What are we looking at on Page 36?

12 A. This is a phone number ending in 2299, believed to be
13 used by Todd Kandaris. On January 5th at 1:23 p.m. up until
14 2:24 p.m., that phone used cellular resources that would
15 provide service to the Comfort Inn on Glebe Road in
16 Arlington.

17 MR. MANZO: Can we go to Page 37.

18 BY MR. MANZO:

19 Q. What are we looking at on Page 37?

20 A. This is the number ending in 2299, continued on to
21 January 5th at 9:33 p.m. into the morning hours of
22 January 6th to the afternoon of -- January 6th. Excuse me.

23 We see that, on January 5th, the phone was using
24 cellular resources that would provide coverage to the
25 Comfort Inn, and then in the morning hours also using an

1 additional sector or antenna that's facing a different
2 orientation at 9:18 up until 4:22 p.m. And then at 3:08, it
3 appears that phone -- it appears the phone was somewhat
4 mobile, probably moving around that area.

5 Q. Thank you.

6 MR. MANZO: Let's go to Page 38.

7 BY MR. MANZO:

8 Q. What are we looking at on Page 38?

9 A. This is a phone number ending in 2817, believed to be
10 used by Jeffrey Stamey, on January 5th at 4:48 p.m. From
11 4:48 p.m. up until 4:04 [sic] p.m., this phone is using
12 cellular resources that would provide coverage to the
13 Comfort Inn. The phone appears to have some eastern
14 movement in the area of Arlington, and then moves back
15 towards the hotel by 4:15 up until 5:31 p.m.

16 Q. Thank you.

17 MR. MANZO: Page 39.

18 THE COURT: Mr. Manzo, it's about five of 5:00.

19 MR. MANZO: Your Honor, just for the record, we'd
20 move in the underlying records, pursuant to business records
21 certifications of -- which are Exhibits 2409, 2410, 2406,
22 2404, 2407, 2413, 2417, 2416, 2408, 2401, 2402 and 2403.

23 MS. HALLER: With the Court's indulgence.

24 (Confers with counsel privately.)

25 MR. MANZO: We'll just ID them for the record. My

1 apologies.

2 THE COURT: Sorry. Say that again.

3 MR. MANZO: We will just ID those records -- those
4 records for the record and not move them into evidence.
5 Those are the underlying records that the agent relied on in
6 her testimony.

7 THE COURT: Okay.

8 MR. MANZO: That's it. Thank you, your Honor.

9 THE COURT: If you all could go to the phone
10 quickly.

11 (Whereupon, the following proceedings were had at
12 sidebar outside the presence of the jury:)

13 THE COURT: Expectation of cross-examination and
14 the length of cross-examination?

15 MR. LINDER: We plan on doing cross-examination.
16 I would like to have -- wait until the morning. There are
17 some reports that she didn't put in that we would like to
18 use as exhibits tomorrow morning.

19 THE COURT: Okay.

20 MR. MANZO: For the record, we'd be arguing that's
21 outside the scope of her testimony.

22 THE COURT: Well, that depends on what it is. So
23 let's break for the evening and then we'll come back in the
24 morning.

25 (Whereupon, the following proceedings were had in

1 open court:)

2 THE COURT: Ladies and gentlemen, we have come to
3 the conclusion of our day. Thank you very much for your
4 time and attention today. Reminder: Tomorrow is Friday, so
5 we have a half day tomorrow. 9:30 we will start and finish
6 up around lunchtime.

7 I just want to impress upon you the sort of
8 instruction that I gave you at the start of the day about
9 the hearing on the Hill. Please avoid viewing any video of
10 it, either in full or excerpts of it, and please avoid any
11 media of it, social media or otherwise.

12 Thank you all very much. We look forward to
13 seeing you in the morning.

14 (Whereupon, the jury exited the courtroom at 4:57
15 p.m. and the following proceedings were had:)

16 THE COURT: Have a seat, everyone.

17 Agent, feel free to step down. I'll ask you not
18 to discuss your testimony with anybody overnight. Thank
19 you.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 THE COURT: Counsel, can I ask you to get on the
23 phones.

24 (Whereupon, the following proceedings were had at
25 sidebar:)

1 THE COURT: I'm going to -- this part of the
2 transcript should be under seal.

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(Proceedings concluded.)

CERTIFICATE

I, LISA EDWARDS, RDR, CRR, do hereby
certify that the foregoing constitutes a true and accurate
transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings produced to the
best of my ability.

Dated this 13th day of October, 2022.

/s/ Lisa Edwards, RDR, CRR
Official Court Reporter
United States District Court for the
District of Columbia
333 Constitution Avenue, Northwest
Washington, D.C. 20001
(202) 354-3269

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