

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 22-15
)	Washington, D.C.
vs.)	October 14, 2022
)	9:30 a.m.
ELMER STEWART RHODES III, ET AL.,)	
)	Day 11
Defendants.)	
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TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

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1 P R O C E E D I N G S

2 THE COURT: Counsel, is there anything
3 preliminarily we need to take up? I can at least get the
4 jury lined up.

5 MR. LINDER: We do, Your Honor.

6 THE COURT: Okay.

7 MR. LINDER: Stanley Woodward is going to address
8 the -- there he is -- the hearing yesterday, see how we want
9 to --

10 THE COURT: I'm sorry?

11 MR. LINDER: The J6 hearing that was yesterday and
12 put something on the record with that.

13 THE COURT: Okay.

14 MR. LINDER: It would by my request to poll the
15 jury. I don't know if anybody has seen it. I'm going to
16 let him address it since he's here now.

17 THE COURT: Hang on one second.

18 COURTROOM DEPUTY: Good morning, Your Honor.

19 This is Criminal Case No. 22-15, the United States
20 of America versus Defendant No. 1, Elmer Stewart Rhodes III;
21 Defendant 2, Kelly Meggs; Defendant 3, Kenneth Harrelson;
22 Defendant 4, Jessica Watkins; and Defendant 10,
23 Thomas Edward Caldwell.

24 Kathryn Rakoczy, Jeffrey Nestler,
25 Alexandra Hughes, Troy Edwards, and Louis Manzo for the

1 government.

2 Phillip Linder, James Lee Bright, and
3 Edward Tarpley for Defendant Rhodes.

4 Stanley Woodward and Juli Haller for
5 Defendant Meggs.

6 Bradford Geyer for Defendant Harrelson.

7 Jonathan Crisp for Defendant Watkins.

8 And David Fischer for Defendant Caldwell.

9 All five named defendants are present in court for
10 these proceedings.

11 THE COURT: Mr. Woodward.

12 MR. WOODWARD: Okay. Judge, I take no pleasure in
13 this role but I do feel compelled that we share with the
14 Court that at the hearing which occurred while we were here
15 but is now available publicly, the Oath Keepers were pretty
16 extensively discussed. Exhibits from this trial were used
17 as exhibits in the hearing. Both Mr. Meggs and Ms. Watkins
18 are specifically discussed. We understand that the jury's
19 been instructed not to watch the news, but Your Honor knows
20 how difficult that is in this environment. And so we just
21 need to create a record, Your Honor. We expect that the
22 jury will tell us that they know nothing about the hearing
23 and that's terrific, but we'd ask that they be asked if they
24 viewed or otherwise were aware of any news concerning the
25 hearing.

1 THE COURT: Okay. Mr. Woodward, if I just ask
2 them collectively or do you want me to individually poll
3 them one by one?

4 MR. WOODWARD: I think for the record, it needs to
5 be one by one.

6 Just to actually be very clear, we're not asking
7 the judge to note that Mr. Meggs or Ms. Watkins recall --
8 right, we don't want to plant that seed.

9 THE COURT: I've got that. Thanks.

10 MR. WOODWARD: You've done this before.

11 MR. LINDER: Thank you, Judge.

12 THE COURT: On the jail call issue on the
13 recording issue, when do we expect that issue to come up?

14 MR. NESTLER: Not today. We'd rather just run
15 forward with Ms. Banks and keep moving.

16 Potentially next week.

17 THE COURT: All right. Well, maybe we can take it
18 up before we adjourn for the day and after the jury's been
19 dismissed.

20 MR. NESTLER: Yes, Your Honor.

21 THE COURT: I have listened to it.

22 MR. FISCHER: Your Honor, if I may, I have,
23 there's some -- the Government's Exhibits that they're
24 planning to use today, I do have some objections that I have
25 listed here if the Court wanted to go through those now, if

1 you wanted to put them on the screen, before the jury came
2 out.

3 THE COURT: Is it with this witness or the next
4 one?

5 MR. FISCHER: Well, it would be the next witness.
6 But I think this witness is only going to take probably 15
7 minutes or less.

8 THE COURT: All right. Let's bring our jurors in,
9 and if we need to -- I don't want to keep them waiting any
10 longer.

11 Agent Banks, you can come on up and re-take the
12 witness stand.

13 COURTROOM DEPUTY: Jury panel.

14 (Jury entered the courtroom.)

15 THE COURT: Please be seated, everyone.

16 Ladies and gentlemen, good morning.

17 Apologies for the late start. I had a matter that
18 preceded this one that was scheduled for 8:30 but that was
19 unfortunately delayed for reasons beyond our control and
20 that's the reason why we're starting at the time we are. So
21 apologies for keeping you waiting.

22 Before we get started, I've been asked by the
23 parties just to make an individual inquiry of each of you
24 regarding the Congressional hearing that took place
25 yesterday. This is just simply to ensure that the

1 instruction that I've given you all, that we've sort of made
2 a full record about that instruction.

3 And so I'm going ask each you individually, just
4 by seat number, whether -- either -- any of you -- whether
5 you have, I should say, whether you have been exposed to the
6 Congressional hearing that took place yesterday, either any
7 video from that hearing or any media reports of that
8 hearing. And so just start with the juror in seat 1?

9 JUROR 1: No.

10 THE COURT: 2.

11 JUROR 2: No.

12 THE COURT: 3.

13 JUROR 3: No.

14 THE COURT: 4.

15 JUROR 4: No.

16 THE COURT: 5.

17 JUROR 5: No.

18 THE COURT: 6.

19 JUROR 6: No.

20 THE COURT: 7.

21 JUROR 7: No.

22 THE COURT: 8.

23 JUROR 8: No.

24 THE COURT: 9.

25 JUROR 9: No.

1 THE COURT: 10.

2 JUROR 10: No.

3 THE COURT: 11.

4 JUROR 11: No.

5 THE COURT: 12.

6 JUROR 12: No.

7 THE COURT: 13.

8 JUROR 13: No.

9 THE COURT: 14.

10 JUROR 14: No.

11 THE COURT: 15.

12 JUROR 15: No.

13 THE COURT: 16.

14 JUROR 16: No.

15 THE COURT: Satisfied, Counsel?

16 MS. RAKOCZY: Yes, Your Honor.

17 MR. LINDER: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Fischer, I think you were on cross-examination
20 or, Mr. Linder, you were on cross-examination.

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SA JENNIFER BANKS, WITNESS FOR THE GOVERNMENT, HAVING BEEN
PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER AS
FOLLOWS:

CROSS-EXAMINATION (CONTINUED)

- - -

BY MR. LINDER:

Q Good morning, Agent Banks. How are you?

A I'm good.

Q Good. I'm going to ask you a few questions about
the exhibits and your testimony from yesterday.

If the government could pull up exhibit -- or page
4 of the exhibit that you they used yesterday, that would be
great.

It's the compass declination thing that we've
talked about. I want to -- and while they're doing that,
let me ask you a few questions while they're pulling that
up.

You testified that Mr. Rhodes -- I represent
Mr. Rhodes in this case -- was using a Verizon phone and
that you'll were able to track that phone from Granbury,
Texas, to D.C., and that's the map we saw which you'll see
in a second, which is page 7 of the Government's Exhibits.

Do all the carriers work substantially the same
way, whether it's AT&T, Sprint, Verizon they all kind of

1 work the same way?

2 A Each carrier collects data -- voice cell sites
3 when you make a voice call, an SMS or a data session;
4 however, some don't maintain it as long.

5 Q Okay.

6 Now, do a lot of the cell providers use the same
7 towers?

8 A They don't use the same antenna or frequency but
9 they'll use the same structure or the pole or what have you
10 that they'll build their antennas on.

11 Q So if someone's using an AT&T phone and someone's
12 standing next to them is using a Verizon phone, they might
13 potentially be pinging off the same tower location?

14 A Location but not the same tower.

15 Q Correct.

16 But on a map, on a red dot, they would still look
17 kind of the same. It would be kind of the same area?

18 A Correct.

19 Q And if so when my client's traveling from Granbury
20 to D.C. over that two- or three-day period, we saw --

21 And I'm sorry, could you pull up 7. We'll do
22 Exhibit 7 first.

23 As we see him going from Granbury on January 3rd
24 to Washington, D.C. on the 5th, as we can see, there are
25 various places in there where there's no cell activity at

1 all showing up on the towers, correct?

2 A Correct.

3 Q And you mentioned yesterday, and this why I want
4 to kind of clear it up for me because I know I'm still
5 confused about it. You indicated that these -- this
6 activity was voice call or SMS, which is text messaging.

7 A This would be voice. The data sessions are not on
8 here.

9 Q Okay.

10 So would the data sessions, which would be text
11 messaging or app updating, would that -- that would maybe so
12 more or would show different?

13 A So data sessions are very voluminous so sometimes
14 when we put that on here, it can overwhelm the map, if you
15 will. So to make the map more clear, I just kept voice on
16 there.

17 I do go in and confirm that the data sessions
18 aren't telling me anything largely different than what the
19 voice has told me.

20 Q Okay.

21 A But data sessions, to clear up, are not SMS.
22 I mean, they could potentially be iMessaging if you're an
23 iPhone user. But SMS is a separate use of the cellular
24 resources. And in this, Verizon does not maintain that cell
25 site data for actual true text message.

1 Q So what does Verizon maintain?

2 A The voice and they maintain data sessions.

3 Verizon's data sessions are actually kind of
4 complicated. You have to go through line by line because
5 some of those sessions we can't rely upon the data session
6 because it could be a carryover session, a hand off or a
7 different type of registration.

8 Q Okay.

9 And so when you went back in and analyzed the data
10 sessions on Mr. Rhodes' phone, it would be consistent with
11 this travel that he made from Granbury to D.C.?

12 A Correct. The useable data sessions were
13 consistent, yes.

14 Q And would a data session -- would it be considered
15 a data session if someone is standing in D.C., broadcasting
16 something on their Facebook video?

17 A Yeah. If you were using Facebook, you're
18 accessing the data network. You're using the cellular
19 network to transmit data.

20 Q And does that show up any differently in you-all's
21 records?

22 A Yes.

23 So essentially you have a data session that
24 could -- when you open up that data session, it could last
25 six hours long by the time it opens and closes.

1 So when you start a data session, if it's a true
2 initiation of that session, that is your cell site that
3 you -- that we'll use to show where the phone is located at
4 that time that session started.

5 Once you get into the data session or the phone
6 call, the network can allocate resources as it needs. You
7 still have to be in the footprint of another tower, but it
8 may not be a tower that's the best signal for you -- the
9 strongest signal.

10 So in a data session that's six hours long, you
11 might -- depending on what provider it is, you might move
12 through several cell sites and your ending one is completely
13 different than your beginning or completely far away.

14 But, again, because we don't get a breakdown from
15 the provider of when you're hitting each of those data --
16 new towers, we don't say a -- we can't say a specific time
17 when you were using that resource, nor is it the most
18 dominant signal for you either. So we can't necessarily
19 predict the general area where the phone was at that time.

20 Q So if someone is moving, per se, say, moving up
21 the road here and Mr. Rhodes is driving, makes a phone call,
22 it shows up as a red dot. If he moves up the highway, the
23 call or the data, voice call or whatever, gets transferred
24 from tower to tower as he's driving?

25 A Well, so, first off, this is not data session that

1 I'm showing. These are voice. So this an actual, an
2 initiation registration as we're moving, and those times are
3 specific.

4 Q If he was on the phone for, say, an hour while
5 he's driving up the road, is it possible he would transfer
6 over several of these towers?

7 A He would, but on a Verizon phone, we don't get to
8 see that. We only see the initiating cell site.

9 Q Okay. So if he made a call in Texarkana, appear
10 in the northeast part of Texas and was on the phone for two
11 or three hours driving across, you would just show where it
12 initiated?

13 A Correct.

14 Q Okay.

15 And I guess the same would be for a text?

16 A Correct. And a text is instantaneous. But
17 Verizon doesn't maintain text message cell-site location.

18 Verizon will give us a 4G and a 5G spreadsheet.
19 That is what technology the phone is using.

20 As I recall in this phone, this is largely VoLTE
21 or 4G records of voice. And they do not have the text
22 message cell site in there.

23 Q So if Mr. Rhodes -- going back to the voice calls,
24 if Mr. Rhodes was standing, you know, 500 yards to the west
25 of the Capitol and started a phone call and had an hour-long

1 phone call where he walked a half a mile, we would just have
2 the originating cell site tower?

3 A Correct. For Verizon.

4 Q Even though the call they have shifted to
5 different towers, you would have the originating tower?

6 A Correct.

7 Q Okay. And would the same be true for the social
8 media broadcasting?

9 A Yes. If you initiate that data session, as you
10 said, 500 yards west of the Capitol --

11 Q Yeah.

12 A -- and that data session lasts whatever time, a
13 long time, we only see that initiating cell site.

14 Q Now, does AT&T work differently?

15 A Yes.

16 Q How does AT&T differ from Verizon in that respect?

17 A They just maintain more data. So they'll show me
18 the handoff during that session for that phone. So
19 they'll -- and they also maintain text message cell site as
20 well. So we just get more data from them.

21 Q Okay.

22 So same scenario on an AT&T phone. He walks the
23 500 yards; it's going to show you the handoff to however
24 many towers he goes through?

25 A So we're just getting more technical now. So if

1 I'm on a voice call --

2 Q Right.

3 A -- that's five minutes long, I initiate on Tower A
4 that's providing -- it's the dominant signal for me, and I'm
5 in that call. Let's say I don't move at all. The network
6 still might move me to other signals I see to allocate
7 resources.

8 If I move, it will do the same thing. You still
9 have to be in the footprint. It has to be strong enough to
10 maintain a call. But it's the initiating cell site that
11 indicates the best location to where you are when you
12 started. Your phone sits here in the courtroom -- well, I
13 don't know if they're allowed in here. But it sits here
14 idle and racks and stacks all the signals. It sees multiple
15 signals. But the signal with the strongest, clearest signal
16 that measures at a power that's the best for it, that it's
17 all based on the different network protocols, that's the
18 tower that you use when you start that call.

19 If that tower has a lot of users on it, the
20 network might say, You know what? I need to allocate you
21 somewhere else, to another tower you see that still has to
22 be within a range that you have a signal strong enough to
23 maintain a call, but it may not be the most dominant signal
24 where you are.

25 Q Okay. You just brought up a very good point,

1 allocating resources. In crowded situations where there's
2 hundreds of thousands of people within a few square blocks,
3 could that overwhelm a cell tower network?

4 A It will -- so to be more specific, that's a
5 technical question, right?

6 So if --

7 Q I'll ask it a little better. My question was very
8 broad.

9 If there's half a million people in ten square
10 blocks trying to make phone calls, broadcasting social
11 media, texting, is it possible some calls might not get
12 connected? Some texts might not be received until hours
13 later? Are there issues with that?

14 A So what would happen is if you're trying -- if
15 you're in an area where there are an overwhelming amount of
16 people for the network, the signals from the towers don't
17 change. No one goes up there and strengthens and lowers.
18 It doesn't change. That is the footprint of that tower. So
19 the strongest, clearest signal is the one you will use when
20 you are receiving or making a call.

21 As the network has a lot of traffic on it and
22 users, if you can't -- if that signal that, your strongest,
23 clearest signal is full or, like, too busy, you'll just get
24 a denial of service, you won't be able to make a call.
25 I think we've all had that happen for sure. And you just

1 keep redialing, redialing, and that's what happens.

2 But because it's full and the network knows it, it
3 needs to allocate. As soon as you get into that traffic
4 channel, it will push you to another antenna. And it could
5 be one that's now down the Mall quite a bit but still
6 providing signal to us.

7 Q Okay. So the tower -- in a crowded situation, the
8 tower closest to you might not be the tower that's taking
9 your signal?

10 A I'm sorry. Say that again.

11 Q In a crowded situation where there's lots of
12 people on the network, the -- you might show up as a dot on
13 the map, but there might be other towers closer to you, but
14 your signal is being -- was handed off to a tower further
15 away?

16 A Well, "closest" doesn't necessarily indicate what
17 the strongest, clearest signal is. It can be line of sight.

18 So, for example, the corner here of the building
19 of this room is the clearest signal for me if the judge's
20 podium were higher than the one right behind him. So even
21 though that's closer, I would use that tower -- that signal
22 as my strongest, clearest.

23 Once I use that, as that gets bogged down or a lot
24 of users, the network might then allocate me to that tower
25 because I can still see it and it wants to allocate the

1 resource.

2 Q And do you have the technical capability to
3 discuss, in your expertise, kind of how much load these
4 towers can handle? Is that something that is in your field
5 of expertise?

6 A So I can't speak it from a raw engineering
7 standpoint. But I will tell you that the way they're built
8 is that the -- as soon as the computer -- that's what the
9 network is -- it's aware that we're getting close to full.
10 And it knows already, like, I'm ready to hand this off.
11 I mean, so they prepare that in their builds.

12 In addition, if we know that there's a very
13 populous area and they're realizing that, hey, this is
14 becoming overwhelming, they'll add temporary cell towers as
15 well.

16 Q Okay.

17 And back to the Verizon and AT&T phones. If my
18 client or someone with a Verizon phone initiated a phone
19 call in one of these areas and was denied service where it
20 didn't connect, does that show up at all as cell phone, as
21 voice activity? Or does it just not show up?

22 A It won't show up because you don't have a
23 connection with that resource. You don't have -- sorry.

24 I'm visualizing the record. When you make a call
25 and it comes in, you right away have a cell -- if it works

1 and you don't get denied, that populates in the records. If
2 you want, you don't, and it's not there.

3 Q There's just nothing there to indicate a call was
4 attempted?

5 A No. What you might see is on the other person's
6 records, that they tried to transmit a call to you, right?
7 So sometimes you'll see that.

8 And those are times when we always compare both
9 sides of the calls if they -- both of the phones are
10 relevant in a case. And we'll say, like, Hey, what did this
11 look like on both sides? That also helps us to determine
12 whether or not a call was communicated or transacted, if you
13 will.

14 Q Okay. So if Person A was trying to call Person B
15 in one of these crowded scenarios and Person A's got denied
16 service, you're saying it might show up on Person B's phone?

17 A No. It wouldn't in that case.

18 Q Okay.

19 A Sorry. I meant if they're trying to get a call,
20 that person is making a call, that would be what you
21 would -- sorry. You asked if I would see it in records.

22 Q Right.

23 A So that would be the only way I would see that
24 that ever happened. Oh, this phone kept trying to call this
25 number; it has no record of it.

1 Q Okay.

2 And -- thank you very much.

3 And is that the same with AT&T and all that also?

4 A Yes.

5 Q Now, if someone makes a call and it connects, yet
6 it's loud, they can't hear, they can't hear the other
7 person. It's, Hey, can you hear me? Hey, can you hear me?
8 And they're doing this for a minute or two, would that just
9 show up as just a regular phone call? There's no way to --
10 they're connected, but the people can't hear each other
11 because of the noise, but it would show up as a regular --

12 A I mean, why can't you hear someone?

13 Q Well, if it's loud, if you're in a crowded
14 situation.

15 A Oh.

16 Q Like, if you're like in a concert and you're
17 trying to call somebody and it connects but you can't hear
18 each other, it would still show as an active call?

19 A It would, yeah. I just probably wouldn't stay on
20 the phone very long.

21 Q Exactly.

22 MR. LINDER: Okay. Thank you very much.

23 I appreciate it.

24 THE COURT: All right. Thank you, Mr. Linder.

25 Mr. Woodward, Ms. Haller?

1 MR. CRISP: No, Your Honor.

2 MR. WOODWARD: No questions, Your Honor.

3 MR. GEYER: No questions.

4 THE COURT: Mr. Geyer?

5 MR. GEYER: No questions.

6 MR. FISCHER: No cross.

7 THE COURT: Okay. Any redirect?

8 MR. MANZO: No, Your Honor.

9 THE COURT: Okay. Agent Banks, thank you very
10 much. You may step down.

11 THE WITNESS: Thank you.

12 MR. MANZO: I believe Mr. Fischer has something he
13 wanted to address.

14 THE COURT: Let's quickly get on the phone.

15 (Bench conference)

16 THE COURT: Mr. Fischer, you said you had some
17 exhibits that you had some concerns about.

18 MR. FISCHER: Yes, Your Honor. I've given the
19 government the numbers for the exhibits to pull up.

20 MR. MANZO: And I'm going to ask Ms. Rohde to pull
21 up 6923 right now.

22 THE COURT: Okay.

23 Okay.

24 MR. MANZO: With the Court's indulgence, I'm
25 trying to go to the ones that Mr. Fischer highlighted right

1 now.

2 Okay.

3 THE COURT: Okay. So I've read this. What's the
4 objection?

5 MR. FISCHER: One second, Your Honor.

6 Is there a second page to that?

7 One second, Your Honor.

8 If you could go back to the slide before that ends
9 in 335.

10 MR. MANZO: This is 335 in front.

11 MR. FISCHER: Your Honor, in this one, this is
12 dated November 14th, 2020, and I'm at a loss as what this
13 has to do with January 6th or the conspiracy, alleged
14 conspiracy.

15 And I would say generally right now, the
16 government, their case has basically proved that the QRF,
17 the purpose of the QRF was as like a rescue force, their
18 witnesses have said that. And at this point, I don't
19 believe to get exhibits in like this, like this one says
20 "Start mowing down masses of these shitballs when they come
21 for us." There's a 403.

22 THE COURT: Well, Mr. Fischer, if I could
23 interrupt.

24 I mean, look, the interpretation of the actual
25 purpose of the QRF seems to me to be an open question for

1 the jury to make a determination, and I don't think there's
2 been any -- I don't think it's fair to suggest that it's
3 conclusive at this point.

4 I mean, look, you know, I agree with you, I mean,
5 it says, "Thanks for coming by today, Mr. Caldwell," to an
6 Adrian Grimes, November 14th, 2020. It meant a lot. Sure
7 we wish you were coming along tomorrow. If we cannot get
8 the President another term, we are well and truly fucked.
9 If we don't start mowing down masses of these shitballs,
10 they will come for all of us. It's kill or be killed, I am
11 afraid. I don't want to live in a communist country. I
12 kind of hope there is some shit tomorrow in some ways just
13 so we can get on with it." This is dated November 14th of
14 2020.

15 You know, this is clearly prejudicial but it's not
16 substantially outweighed by its probative value. It clearly
17 goes to Mr. Caldwell's state of mind.

18 I don't know that it's a co-conspirator statement.
19 It seems to me something that arguably is only admissible
20 only against Mr. Caldwell, unless the government has a
21 reason to think otherwise. This is not made to anybody
22 within the conspiracy, I believe, and doesn't necessarily
23 reflect any plan or maybe motive, but I don't know.

24 MR. MANZO: I believe we'd say this is a statement
25 of future intent.

1 THE COURT: Yeah, I think that's a little remote
2 if you ask me. I think a statement of future intent usually
3 has a clear and temporal proximity than something that
4 occurs month and months into the future.

5 Now, I understand this is a conspiracy but,
6 I mean, I don't think that's probably pushing that exception
7 further than it's intended to be.

8 MR. MANZO: Your Honor, are we still, and I have
9 kind of lost track on this, are you going to make all of
10 your rulings on which statement goes to which conspirator at
11 the end of trial?

12 THE COURT: No. I mean, my expectations has been
13 throughout that if the defense would like a particular
14 statement to come in only against a certain individual,
15 they'll let me know that, and I'm not sure that's happened
16 very often so far. And so my plan would be to try and do so
17 contemporaneously, but if that's not possible, then we can
18 let the jury know that there will be further instruction
19 that.

20 MR. MANZO: Your Honor, then if I could put this
21 in further context, can we go back a slide.

22 So this is a slide from 11/9 and this is after
23 Thomas Caldwell has met Stewart Rhodes and other
24 individuals. In the middle of this slide here, Mr. Caldwell
25 says, "Met some very interesting special operators there,

1 some of whom are coming back in town this week for an op
2 along the lines of what we discussed, community members.
3 You and Kenny should meet them. I am helping with intel
4 logistics and they are nationwide."

5 So this is a reference to the Oath Keepers and
6 meeting Stewart Rhodes directly preceding this text. And in
7 the slide in question, the very next slide here, we should
8 go forward, Ms. Rohde.

9 MR. GEYER: This is Mr. Geyer. I want to state
10 for the record that's not my client in reference to Kenny.

11 MR. MANZO: And so here he's lining up the --
12 Mr. Caldwell is lining up what the intent of the conspiracy
13 is and that we believe is to cause violence to prevent the
14 transfer of power.

15 THE COURT: Well, I guess, if the parties are in
16 agreement -- if I'm going to rule that this is admissible,
17 if there's further objection about against whom it should be
18 admitted, if everybody can agree we can clean that up at the
19 end, we can do it that way.

20 MR. WOODWARD: I believe defense counsel are in
21 agreement that we'll deal with it at the end as to who it's
22 admitted against.

23 THE COURT: Okay. Fine. I'm happy to hear that
24 and we can set aside whatever time we need to go through
25 whatever objections parties have about -- I cannot hear you,

1 Mr. Geyer.

2 MR. GEYER: Can you hear me now?

3 THE COURT: I can, yes.

4 MR. GEYER: Your Honor, in that slide that we
5 scrolled back to, there's a reference to Kenny, and my
6 client, Mr. Caldwell, never met until they were in court.
7 I'm not sure exactly how to correct that but I think the
8 thing that the jury will have an immediate impression --
9 perhaps that name could be expunged because I don't think
10 it's really connected to this case.

11 THE COURT: So --

12 MR. MANZO: Just for sake of use can we give a
13 limiting instruction that this Kenny is not Kenneth
14 Harrelson.

15 THE COURT: If we can stipulate that Kenny is not
16 a reference to Kenneth Harrelson, I will let the jury know
17 that.

18 MR. GEYER: Thank you, Your Honor.

19 THE COURT: Is there anything else, Mr. Fischer?

20 MR. FISCHER: No, Your Honor. You've heard my
21 objection.

22 THE COURT: Okay.

23 MR. WOODWARD: Your Honor, we would also just
24 reiterate our concern, this Mr. Woodward. We're getting a
25 bit carried away here with the way we're formatting these

1 messages. If we advance further into this presentation,
2 we're going to see that the government is now taking emails
3 and putting them in this blue format. I think today is the
4 first time we're seeing that. It's obviously not the way
5 things are done. I would present the actual evidence
6 because that's what it is.

7 Now, we appreciate the government's concern about
8 spreadsheets and spreadsheets and spreadsheets, but the way
9 that they're presenting emails and text messages
10 interchangeably is arguably misleading and suggests that
11 these folks were sitting there on various formats, mediums,
12 et cetera, and looking at these records in realtime and
13 that's just not what the evidence would show.

14 THE COURT: Well, I'm not sure I understand the
15 connection between their objection and your ultimate point;
16 in other words, I'm not sure what the format has to do with
17 whether somebody ultimately was looking at it in realtime or
18 not. The formatting is simply a method of a way to provide
19 a clear representation to the jury what the communication
20 was. If any of your clients want to get up and say that
21 they hadn't read something in particular, they're free to do
22 that. I'm not sure the formatting makes a difference one
23 way or the other. If you want to try to make the point
24 through cross-examination to somebody that just because they
25 received it, doesn't mean they read it, you can do that too.

1 MR. WOODWARD: Let me rephrase then. We
2 understand this to be a summary exhibit in which large
3 amounts of data from cell phone extraction were compiled by
4 the government.

5 THE COURT: Right.

6 MR. WOODWARD: With respect to --

7 THE COURT: I wouldn't call it a summary exhibit.
8 It's not a summary. It's extracts of larger data.

9 MR. WOODWARD: That they're independently
10 authenticating, okay.

11 THE COURT: Right.

12 MR. WOODWARD: With respect to slide 79, please,
13 government.

14 Your slides unfortunately are not matching up.
15 I think that's what Mr. Fischer's issue was. Your slides
16 are not matching what you gave us last night.

17 If you could search for ProtonMail, or I can
18 just -- I can put it up.

19 THE COURT: If it's --

20 MR. MANZO: Sorry, we had a formatting issue this
21 morning.

22 Can you just go forward a couple emails,
23 Ms. Rohde. Actually, can you go back.

24 MR. WOODWARD: I have it on my screen.

25 THE COURT: How far into the examination is this

1 email going to come up? All right. I guess it's up. All
2 right, go ahead.

3 MR. WOODWARD: You see now they're putting in
4 emails into this stream of text messages, which is
5 misleading, and so we would ask that the ProtonMail emails
6 be admitted as evidence.

7 MR. MANZO: Your Honor, in each of those exhibits
8 I'm going to go through again the bottom left-hand corner of
9 this where it says 22.E.3. So this means that 22, it's a
10 message from Stamey's phone; E, stands for email.

11 THE COURT: If the objection --

12 MR. MANZO: Caldwell's phone. 22 is Caldwell.

13 THE COURT: Hang on.

14 If the objection here is to the fact that this
15 exhibit, which is a compilation of various communications,
16 crossing back and forth between different mediums, I'm not
17 sure that's a valid objection. You're more than happy to
18 clear that up on cross-examination. I would expect
19 government counsel to make that clear on direct examination,
20 and you can ask on cross-examination whether it necessarily
21 means somebody has seen the communication in realtime and
22 presumably the agent will say, "I don't know" or "yes" or
23 "no" or "no, it doesn't mean that."

24 MR. WOODWARD: Fair enough. Thank you,
25 Your Honor.

1 THE COURT: Okay.

2 And, Mr. Woodward, if you want the original in,
3 I assume the original is somewhere, and if you feel like
4 that's a better representation, then by all means show it to
5 the jury.

6 MR. WOODWARD: That is a perfectly reasonable
7 observation.

8 MR. FISCHER: Your Honor, there are other ones
9 that I had. Those are probably going to take ten or 15
10 minutes. Are we starting with this exhibit?

11 MR. MANZO: Unfortunately, yes.

12 THE COURT: Are they all of the same ilk,
13 Mr. Fischer?

14 MR. FISCHER: Your Honor, a couple of them are
15 where they have messages -- they were -- it's Mr. Caldwell
16 commenting on somebody's message, but the government can't
17 find the message so we don't know what he's commenting
18 regarding. And it's not entirely clear what the context is.

19 MR. MANZO: Just to be clear, it's not that we
20 can't find the comment. This is the same issue that we have
21 litigated before, that when Facebook provides records, you
22 don't have the underlying comment. You have the comment or
23 reply from the user of the account.

24 THE COURT: All right.

25 (Open court)

1 THE COURT: Ladies and gentlemen, I hate to do
2 this. Instead of keeping you all sitting here, I'm going to
3 dismiss you for a few minutes while I resolve some
4 evidentiary matters with the lawyers and then bring you all
5 back in. We tried to resolve these issues before court but
6 because I had that prior matter, it made that impossible to
7 do this morning. So sorry about this, we hope to have you
8 back shortly so don't go too far.

9 COURTROOM DEPUTY: All rise.

10 (Jury exited the courtroom.)

11 THE COURT: All right. Please be seated,
12 everyone.

13 Mr. Fischer, why don't you show me what you have
14 concerns about or can we bring it up?

15 MR. FISCHER: Government's Exhibit 2001.C.2. B.

16 MR. MANZO: Is this the correct --" I accept that
17 assignment"?

18 MR. FISCHER: Is that correct?

19 THE COURT: Is that the only slide? This is
20 2001.C.2.B. It says it's continued. Is there something
21 before?

22 MR. MANZO: It's just two slides.

23 THE COURT: Go to the other slide, please.

24 Go to the earlier slide, please.

25 Do we know who John McGraw is?

1 MR. FISCHER: No, Your Honor.

2 THE COURT: Okay. Mr. Manzo.

3 MR. MANZO: Your Honor, this slide is obviously
4 relevant in that it goes to the intent of Mr. Caldwell in
5 that he wants to -- can you go back a slide -- that he's
6 saying he's done -- he's defended the Constitution
7 peacefully, but "they have morphed into a pure evil and even
8 blatantly rigging an election and paying off the political
9 caste." So that the inference here is he will not be acting
10 peacefully going forward.

11 So I believe Mr. Fischer's objection is that we do
12 not know what the comment was in response to from
13 Mr. McGraw. But we have the whole statement of
14 Mr. Caldwell. If Mr. Fischer would like to argue that
15 Mr. McGraw was talking about something irrelevant or talking
16 about something that puts this in different context, he is
17 certainly free to do so.

18 THE COURT: Is this a Facebook post?

19 MR. MANZO: This is a Facebook post, the 2001
20 series in the bottom left-hand corner.

21 THE COURT: And is this a direct message to
22 someone, or is this a quote?

23 MR. MANZO: This is a call on a public post by
24 John McGraw.

25 THE COURT: Okay. So this is not a direct message

1 between Mr. McGraw and Mr. Caldwell?

2 MR. FISCHER: Well, Your Honor, the Facebook
3 message itself would not be public. It would be a private
4 message among a group.

5 THE COURT: Right. But I tried to make the
6 distinction a few days ago, a communication between two
7 people, as opposed to a communication that is to a broader
8 audience. And whether the group is public or nonpublic,
9 I'm not sure that's a huge factual distinction. There is a
10 factual distinction, but I'm not sure it's material.

11 MR. FISCHER: It's a broader group, and the
12 reference to "they," we don't know specifically who "they"
13 is. I know the government thinks they know who "they" is.
14 But "they" could be a state legislator, a group of state
15 legislators.

16 THE COURT: That seems unlikely, given the date of
17 it is January 1st of 2021.

18 MR. MANZO: Your Honor, defense is free to proffer
19 anything they would like. They're free to draw out -- if
20 Mr. Fischer wants to argue that Mr. Caldwell is responding
21 to comments by a state legislature, there's no limit to what
22 Mr. Caldwell can say this was a comment in reply to. But we
23 think it speaks for itself.

24 THE COURT: All right. I'm going to admit this.
25 I think there is probative value insofar as it certainly

1 bears on Mr. Caldwell's state of mind. It's January 1st of
2 2021. It's five days before January 1st. At this point,
3 he's already committed to coming to Washington, D.C. He's
4 been in communication with the defendants prior this date.

5 And while we don't know who Mr. McGraw is what
6 he's posting to, you know, as I've said, I don't think the
7 rule of completeness is a rule of exclusion, it's a rule of
8 substance and ordering the evidence.

9 And, ultimately, I don't think the prejudicial
10 effect of the fact that we don't have the initial comment by
11 Mr. McGraw outweighs the probative value of the particular
12 statement that Mr. Caldwell makes in response to whatever
13 that comment may have been.

14 I mean, it's clear that whatever the comment was,
15 it is in reference to the current state of affairs in terms
16 of the election and the upcoming Electoral College
17 certification and the inauguration.

18 MR. FISCHER: Your Honor, one other problem I just
19 want to add for the record: We don't know what the
20 assignment is. He says, "I accept that assignment." So we
21 don't know what the assignment Mr. McGraw is talking about.

22 THE COURT: All right. I can ask the government
23 to remove that if that's of particular concern.

24 MR. FISCHER: Thank you, Your Honor.

25 THE COURT: So we'll take out -- can we remove

1 that from the slide --

2 MR. MANZO: Yes, Your Honor.

3 THE COURT: -- or redact it?

4 MR. GEYER: Your Honor, I'm not raising the
5 objection, but it does indirectly impact me. I've seen a
6 lot of communications in other areas that fit into this
7 category.

8 Just as an example, during this time, there's all
9 sorts of discussions about meme wars and blast them with
10 memes.

11 THE COURT: I'm sorry. Be what?

12 MR. GEYER: Memes. It's like a --

13 THE COURT: No. I know what a meme is. I didn't
14 hear what you said.

15 MR. GEYER: There's a lot of overheated,
16 bombastic --

17 THE COURT: Look, Mr. Geyer -- and you'll forgive
18 me for interrupting you, but that's the dispute between the
19 parties, right? Is this rhetoric and bombast? Or is it
20 something more sinister than that?

21 And that seems to me to ultimately be not a matter
22 of admissibility, but that's an ultimate jury question.

23 MR. GEYER: Thank you, Your Honor.

24 MR. FISCHER: Your Honor, if I may, the next is
25 2001.C.2.D.

1 And I'm getting ready for the government to use
2 square roots in these exhibit numbers. Because I flunked
3 calculus, I can barely follow this.

4 THE COURT: It hasn't been easy.

5 MR. MANZO: Again, Your Honor, we've pulled this
6 up. This is, again, a reply to, I believe, a public comment
7 by John McGraw. And we think it's obviously relevant to
8 intent.

9 THE COURT: Yes. I mean, I think it's the same
10 thing. I mean, it's in a comment. We understand that we
11 don't have the initial posting by Mr. McGraw. But, again,
12 I think that there's probative value in terms of
13 Mr. Caldwell's state of mind.

14 Again, this is dated December 31st, 2020. It's
15 within a week. It's clearly within the time period in which
16 he's been in communication with other defendants. And his
17 statement here is: "It begins for real January 5 and 6 in
18 Washington, D.C., when we mobilize in the streets."

19 It's clearly referencing the events of January 5
20 and 6.

21 "Let them try to certify some crud on Capitol Hill
22 with a million or more patriots in the streets. This kettle
23 is set to boil."

24 I mean, the probative value of it is clear, and
25 I don't think the prejudicial quality of it is outweighed

1 by -- outweighs that probative value just by the fact that
2 we don't know what the initial comment is.

3 MR. WOODWARD: We'll renew our objection. I mean,
4 they're pegging what you've seen from Facebook and copying
5 information into it but now added to the reply to the
6 comment that is not what was in the Facebook return.

7 THE COURT: I know, but this is what Mr. Caldwell
8 said in response to what was ever posted. He wasn't posting
9 to "Let's get together for dinner on January 5th."

10 MR. WOODWARD: No. I understand that. But reply
11 to the comment is, again, we're creating evidence here. The
12 Best Evidence Rule would suggest that if they want to bring
13 in these Facebook records, they can use the Facebook returns
14 as they've been doing. Creating these slides --

15 THE COURT: I mean, look, you know -- I mean,
16 Mr. Woodward, we could spend a lot of time here showing the
17 original record, but unless there's any reason to believe
18 that this is not an accurate depiction of what the original
19 record says, then I'm not sure what the objection is.

20 MR. WOODWARD: Understood, Your Honor.

21 THE COURT: I don't want to be difficult here, but
22 this is really just to ensure the jury can read this and
23 understand it and, frankly, make all of this more efficient.

24 MR. MANZO: Your Honor, just for the record, this
25 is verbatim. The message says, "Reply to comment."

1 MR. WOODWARD: I mean, I understand, Your Honor.

2 THE COURT: I mean, again, if you want to put the
3 original in, show it in cross-examination. I just don't
4 know what it's gaining any of you, other than just slowing
5 down the presentation of evidence.

6 MR. WOODWARD: I understand.

7 MR. FISCHER: Your Honor, could I move to the next
8 one then?

9 THE COURT: Yes.

10 MR. FISCHER: 2001.T.54.2.

11 THE COURT: Is the government going to provide
12 some kind of legend at the end of this that will assist the
13 jury in being able to figure all this out?

14 MR. NESTLER: Yes, Your Honor.

15 THE COURT: And we should present it now so we can
16 all figure it out.

17 All right.

18 MR. MANZO: And, Your Honor, perhaps it would be
19 easier to go to the previous message here that this is in
20 response to.

21 So this is 2001.T.54.1, is a message from Diann to
22 Caldwell, and it's a Presidential retweet. And then they
23 reply to this one.

24 Mr. Caldwell says, "Yeah, but who are we -- what
25 are we supposed to do? Tell me who to shoot first, and I'm

1 all in."

2 MR. FISCHER: I don't believe it's a direct
3 response to that. I think the government is incorrect on
4 that. I think there was some banter back and forth.

5 And this message does not -- this is not about
6 January 6th, and it's not about inter --

7 THE COURT: I'm sorry to interrupt you,
8 Mr. Fischer. Can you show me the time stamp on the
9 previous --

10 MR. MANZO: It is a direct response, Your Honor.
11 I can show you the original Facebook message.

12 And this is a text -- no, it's not. It is
13 Facebook. It's a thread.

14 So this is a thread between two individuals, Diann
15 and Mr. Caldwell.

16 MR. WOODWARD: What does the T mean in the --

17 MR. MANZO: Thread.

18 MR. FISCHER: I thought it was text.

19 THE COURT: So this says December 20th, 2020, from
20 Diann Tomblin to Mr. Caldwell.

21 What's the YouTube link? Do we know?

22 MR. MANZO: We can pull it up. The Court's
23 indulgence.

24 It's unavailable at this point. But we believe
25 the summary of the message speaks for itself. It says,

1 "Presidential retweet. Thank you, @realdonaldtrump. We've
2 got your back 100 percent. #fightfortrump."

3 And then Mr. Caldwell responds to that and says,
4 "Yeah, but what are we supposed to do? Tell me who to shoot
5 first, and I'm all in."

6 And the title of the YouTube link was "Fight for
7 Trump, Save America, Save the World." So even though the
8 link is dead, we think this message gives more than enough
9 context and speaks for itself.

10 And if Mr. -- Mr. Fischer is free to argue that --

11 THE COURT: No. I know. I know.

12 Look, let me just say this to defense counsel. I
13 appreciate what you all are up against and would love to
14 turn the clock back to tell your clients not to put down
15 what they've put down. But they've done what they've done.
16 And at the end of the day, we can't unring that bell.

17 And all of this is clearly relevant to their
18 states of mind. In particular, this slide is relevant to
19 Mr. Caldwell's state of mind.

20 Whether he meant it bombastically, rhetorically,
21 or what have you, again, that's a question for the jury and
22 it's not a basis to keep it out. It's ultimately something
23 you all are going to have to argue to the jury, that don't
24 take these folks at their words; take them at what their
25 actions were on January 5th and 6th. And we'll see what

1 side they come out on.

2 But the words are the words, and they clearly are
3 relevant to state of mind and are clearly relevant to the
4 events that are about to come upon the country. This is
5 December 20th, 2020. And, you know, so the objection is
6 overruled.

7 MR. CRISP: Your Honor, on a slightly different
8 vein, if I may.

9 I know we talked earlier on the call about having
10 sort of a conference at the end of this before the closing
11 arguments and jury's instructed.

12 But is it possible at times to go through and
13 ask -- and we may be able to try and save some time at the
14 end and start going through now, to the extent that we can,
15 and then clean it up at the end, determine which ones apply
16 to which defendants?

17 Because my concern, obviously, is that they may
18 have this sitting in their heads for a period of time; and
19 as you quote Scalia, "You can't unring that bell."

20 THE COURT: I will. And that's why I thought we
21 would try to do it contemporaneously.

22 MR. CRISP: I was not aware -- I wasn't tracking
23 that. So my apologies.

24 THE COURT: I'm happy to giving limiting
25 instructions, as I have been throughout --

1 MR. CRISP: Sure.

2 THE COURT: -- when appropriate.

3 And if there are texts like this that I
4 arguably -- that I think are arguably only against
5 Mr. Caldwell, I'm happy to tell the jury that.

6 I don't think this is a co-conspirator statement.
7 I don't think it comes under 803(3). Maybe it comes in
8 under 803(3), but there's not a direct linkage to the
9 alleged conspiracy. This is just him spouting off.

10 MR. CRISP: And so I would ask that we be able to
11 do it now; and to the extent we go back and say, Okay, this
12 is what we said is and isn't. And then I don't want to
13 waive anything to the extent that we've had something in the
14 past or something occurs coming up as to whether or not we
15 think it would be or not.

16 So I'd like to be able to do it concurrently as
17 well at the end.

18 THE COURT: That's fine. Just --

19 MR. CRISP: To that vein --

20 THE COURT: -- let me know. And if we can resolve
21 it in advance.

22 MR. CRISP: These texts, I'm going to ask that
23 they not be applied towards Ms. Watkins, is what I would be
24 asking. Any communications that we've dealt with thus far
25 today.

1 THE COURT: Okay.

2 MR. FISCHER: Your Honor, I have one more if I
3 may.

4 2007.T.3.8.

5 THE COURT: Okay. Next. Was that it, just this
6 one slide?

7 MR. FISCHER: Yes, it is, Your Honor.

8 THE COURT: Your objection, Mr. Fischer, is what?

9 MR. FISCHER: Your Honor, relevance and 403.

10 Relevance, this applies to -- it clearly applies
11 to the Million MAGA March on November 14th, and it's a
12 statement of we could have. It's a very prejudicial
13 statement. I think it also would harm the other defendants
14 as well.

15 And again, I mean it's just sort of a --

16 THE COURT: Okay. I'll keep it out.

17 MR. MANZO: Excuse me, Your Honor.

18 THE COURT: I'll keep it out.

19 MR. MANZO: Your Honor, this is --

20 THE COURT: I know what it is.

21 MR. MANZO: This is exactly -- so he went to
22 Washington, D.C. and the government's theory of the case is
23 that the Million MAGA March was a planning session where
24 people got to know each other and whatnot. And then he's
25 there talking about burning Congress to the ground. It's

1 extremely relevant to him then going into the Capitol
2 Grounds, going up to the inauguration stage and then filming
3 a video with him with Mr. Caldwell and his wife screaming
4 about how they drove Congress out because they're pussies.

5 This is, we think, some of the most important
6 evidence that we'll see of this date, because Mr. Caldwell
7 is going to argue, as Mr. Fischer did in opening, that this
8 was a date, that he and his wife just went to D.C., they
9 grew up in the D.C. area, they used to be able to climb the
10 congressional steps, and it was just like a normal day.

11 We are arguing, okay, that this was a remarkable
12 day, it was January 6th, it was a riot, it was the first
13 time.

14 THE COURT: I got you.

15 MR. MANZO: And then --

16 THE COURT: I got you, Mr. Manzo. I got you.

17 MR. FISCHER: I'd point out, Your Honor, the
18 Godbolds, the FBI has not interviewed the Godbolds at all,
19 so that's how serious the government took this text message
20 as a true threat.

21 MR. WOODWARD: Like Mr. Crisp, we don't have any
22 furtherance of the conspiracy.

23 THE COURT: I'm not sure it's being admitted to
24 suggest that it was contemporaneously a true threat because
25 presumably the government would not have had this time.

1 But, again, this is, again, bearing on Mr. Caldwell's state
2 of mind. I mean, it's just very hard to avoid these
3 statements bearing on someone's state of mind when they're
4 expressly referencing Congress, albeit, this is November
5 16th, 2020.

6 Look, I think this is of the same ilk of what
7 we've seen before. These are statements he's made that bear
8 on his state of mind. They're not more prejudicial than
9 probative. There's some inflammatory language in here.
10 I mean, I've, you know -- and unlike the list that we found
11 at his house, this obviously is a direct reference to
12 Congress, as opposed to state election workers who have not
13 been subject to the -- who are not in any sense as of my
14 understanding been the target of the alleged conspiracy,
15 which is why I excluded that document, but, you know, this
16 one is different. This one is different. So all right.
17 I'll let it in.

18 MR. LINDER: Your Honor, we would request on
19 behalf of Mr. Rhodes the same limiting instruction Mr. Crisp
20 requested on behalf of his client.

21 THE COURT: Are any that you all believe would be
22 admissible against everyone? The government?

23 MR. MANZO: Not these four.

24 MR. WOODWARD: There's a number of them in this
25 batch.

1 THE COURT: How many such slides are we going to
2 look at?

3 MR. MANZO: We're going to look at about 120
4 slides.

5 THE COURT: That's a lot of slides.

6 MR. WOODWARD: We only received 112, but it's
7 still a lot of slides.

8 MR. MANZO: I said approximately 120.

9 THE COURT: Mr. Woodward wants the raw data so
10 he's not too thrilled with slides.

11 MR. MANZO: Your Honor, this does get a little
12 complicated here because part of these statements do go to
13 the conspiracy. In the early part of these slides, you'll
14 see the development of the relationship between
15 Mr. Caldwell, Mr. Rhodes, and that those conversations and
16 they're all at the Million MAGA March.

17 THE COURT: Look, I think the question is less
18 about communications among the defendants and others who are
19 alleged to be in the conspiracy than it is with third
20 parties like the Godbolds and his -- those are the ones
21 that -- and I'm wondering how many there are of that ilk in
22 this deck of 120 or approximately 120.

23 MR. MANZO: Of people who are not, for example, on
24 the board, we'll say, I'd say there's about ten to 15
25 slides.

1 THE COURT: Well, that makes it easier it seems to
2 me.

3 MR. WOODWARD: I think that is a --

4 THE COURT: Look, I've got to tell you, folks, and
5 this is really what -- this is why we had Pretrial
6 Conferences. And I know it's challenging, I recognize that,
7 but what's particularly challenging is keeping this jury out
8 for as long as we are on evidentiary matters. And I know
9 today is my fault because I had that plea happening before
10 today, but let me tell you, if we've got these kind of
11 substantial evidentiary issues to deal with, we're going to
12 be together at 8:00 in the morning or after 5:00 to the deal
13 with these issues.

14 I can't have these people sitting out for this
15 long to deal with evidentiary matters when they know they're
16 going to be here for six or seven weeks. We need have them
17 in a good mood. And if they think they're wasting their
18 time, they're not going to be happy about it. So I really
19 am asking all of you, both sides, to do everything you can,
20 and I'm prepared to be here whatever time needs to be, need
21 to get here and the staff is prepared to do that, but we've
22 got to do this in a way that's efficient and allows us to
23 continue with the evidence during the business hours of the
24 day.

25 Look, let's get started. If these issues are

1 coming up, I'll deal with them one at a time. We know the
2 particular ten or so that are, in my view, clearly only
3 attributable to Mr. Caldwell. If there are others that come
4 up, raise an objection and we'll deal with it. But I don't
5 want to keep them sitting out there any further. Okay?

6 MR. CRISP: May I suggest to try and streamline
7 this, if we have a particular objection specific to this, we
8 can just raise our hands?

9 THE COURT: I'm sorry?

10 MR. CRISP: So we don't keep going back and forth
11 on the thing, if I just raise my hand without saying it's a
12 particular thing, can that just be a signal that it's not
13 applicable to my client just to try and streamline this,
14 Judge does that make sense?

15 THE COURT: No, because you've got to do something
16 that is reflected on the record and I'm not saying Mr. Crisp
17 is raising his hand. So just say "objection" and I'll do
18 what I'm saying.

19 MR. CRISP: That's fine. I'm trying to make this
20 faster. That's fine.

21 (Pause)

22 THE COURT: We got a note from the juror in seat
23 16 that says that they will be moving to Dallas at the end
24 of November.

25 MR. LINDER: I could host them.

1 THE COURT: Yeah, I don't want to let them know
2 that closing arguments could be made in your backyard.
3 I just wanted to everybody to know that.

4 (Pause)

5 MR. CRISP: I didn't happen -- did I hear you say,
6 before you had discussed that you are ruling they are not
7 coming in? As to the four we have already gone over, you
8 have ruled that they are not coming in again. I don't want
9 to object without having to.

10 THE COURT: Right.

11 MR. CRISP: Right.

12 THE COURT: Just remind me if I forget but
13 hopefully I'll recognize them.

14 COURTROOM DEPUTY: Jury panel.

15 (Jury entered the courtroom.)

16 THE COURT: Okay. Ladies and gentlemen, welcome
17 back, thank you for your patience while we resolved some of
18 these evidentiary matters.

19 To try and make up for lost time, we will not have
20 our ordinary morning break. You all at least had it,
21 they'll work through it and we'll go till lunch and then
22 adjourn for the day, all right? Thank you, everyone.

23 MR. MANZO: Thank you. The government calls Agent
24 Sylvia Hilgeman.

25 COURTROOM DEPUTY: Please raise your right hand.

1 (Witness placed under oath.)

2 Thank you.

3 THE COURT: Hi, Agent Hilgeman, welcome.

4 - - -

5 SA SYLVIA HILGEMAN, WITNESS FOR THE GOVERNMENT, SWORN

6 DIRECT EXAMINATION

7 - - -

8 BY MR. MANZO:

9 Q Agent, could you please introduce yourself to the
10 jury by stating and spelling your last name?

11 A Sylvia Hilgeman, S-y-l-v-i-a, H-i-l-g-e-m-a-n.

12 THE COURT: I'm sorry, could you spell your name
13 one more time, please.

14 THE WITNESS: The first or last? Both?

15 THE COURT: Just the last.

16 THE WITNESS: H-i-l-g-e-m-a-n.

17 THE COURT: Got you. Hilgeman, okay.

18 BY MR. MANZO:

19 Q What do you do for a living?

20 A I'm an FBI agent.

21 Q How long have you done that?

22 A 13 years.

23 Q What did you do before you were an FBI agent?

24 A I am a certified public accountant, so I worked in
25 public accounting for about five years.

1 Q And then when you joined the FBI, what was your
2 initial role?

3 A I was assigned to a financial crimes squad in
4 New York and I did that for almost my entire eight years
5 there.

6 Q Could you describe what a financial crimes
7 investigation looks like.

8 A Yeah, we primarily investigated bank fraud and
9 accounting fraud from beginning to end. It was a lot of
10 document review, bank statements, business emails, things of
11 that nature.

12 Q Then did you leave New York at some point?

13 A I did.

14 Q Where did you go?

15 A I worked at headquarters here in D.C. for about
16 two and a half years as a supervisor.

17 Q And who did you supervise?

18 A I only supervised myself, a couple of analysts
19 that helped me out.

20 Q What kind of work did you do?

21 A Provided financial support to terrorist financing
22 cases primarily.

23 Q What did you do after that?

24 A I transitioned back to being an investigative
25 agent in October of 2020, and then I was on a corporate

1 fraud squad for about four months before getting permanently
2 assigned to this case that I'm currently working.

3 Q And briefly, were you working in the Washington,
4 D.C., area on January 6th?

5 A I was.

6 Q What were you doing that morning?

7 A I was at my office out in Manassas, Virginia.

8 Q What happened that day?

9 A At roughly -- I can't remember if it was 2:00 or
10 3:00, we got notice that something was happening at the
11 Capitol.

12 Q What did you do?

13 A And then our supervisor and chain of command
14 advised us to respond.

15 Q How did you respond?

16 A So we all drove into D.C. We met with local
17 police. I don't think there were any Capitol Police there
18 at the time, but -- and were then asked to sort of just
19 assist them with clearing the Capitol Grounds, which for me
20 just consisted of, we kind of just stood behind the -- or in
21 the area behind the MPD and Capitol Police that were
22 actually trying to move the crowd back.

23 Q And are you a certified public accountant?

24 A Yes.

25 Q CPA?

1 A Yes.

2 Q Were you the only CPA trying to clear the crowds
3 that day?

4 A I don't know.

5 Q At some point, did you join this --

6 A No. I know there's one other person on my squad
7 at least that's a CPA. He was there.

8 Q At some point, did you join an investigation into
9 some of the Oath Keepers?

10 A Yes.

11 Q When did you do that?

12 A It was March 1st of 2021.

13 Q What has been your area of purview in the
14 investigation?

15 A So it's been kind of twofold. Primarily, I
16 focused on those that were designated as the Quick Reaction
17 Force. I also focused a bit on some of the tangential
18 groups of Oath Keepers that traveled to D.C. for that time
19 period.

20 MR. MANZO: And, Mr. Nestler, can you put 1530 up.

21 Thank you, Mr. Nestler.

22 BY MR. MANZO:

23 Q Agent, can you point to the Quick Reaction Force
24 on 1530 if you see them on the board?

25 A It is the individuals under the orange heading

1 here.

2 Q Who are the individuals on 1530?

3 A Thomas Caldwell, Ed Vallejo, Todd Kandaris,
4 Kenneth Bittner, and Paul Stamey.

5 Q Briefly, where did these individuals stay on the
6 night of January 5th into January 6th?

7 A They were at the Comfort Inn on Glebe Road in
8 Arlington, Virginia.

9 Q And as part of your investigation, did you learn
10 the true home residence of these individuals?

11 A Yes.

12 Q Can you give the states that these individual
13 resided in?

14 A Yes.

15 Mr. Caldwell resides in Virginia.

16 Todd Kandaris and Ed Vallejo are from Arizona.

17 Paul Stamey is from North Carolina.

18 And Kenneth Bittner is from Florida.

19 Q And have you seen pictures of Mr. Caldwell before?

20 A Yes.

21 Q If you're asked to identify him in the courtroom,
22 would you be able to?

23 A Yes.

24 Q And looking around the courtroom, can you identify
25 Mr. Caldwell?

1 A Yes. He is sitting directly behind Mr. Fischer
2 there with the black mask.

3 MR. MANZO: May the record reflect an in-court
4 identification of Mr. Caldwell?

5 THE COURT: Mr. Fischer, any objection?

6 MR. FISCHER: No objection.

7 THE COURT: All right. The record will reflect an
8 in-court identification of Mr. Caldwell.

9 BY MR. MANZO:

10 Q I believe earlier in your testimony, you said that
11 you also investigated tangential groups?

12 A Correct.

13 Q And is it fair to say the other people you
14 investigated are not on this board?

15 A Correct.

16 Q Okay. Can we turn to 6923.

17 Agent, have you reviewed 6923 in its entirety?

18 A I have.

19 Q And is this a compilation of messages from various
20 sources?

21 A They are.

22 Q Does that include Facebook?

23 A Yes.

24 Q Signal?

25 A Yes.

1 Q Text messages?

2 A Yes.

3 Q And are these from various different phones?

4 A Yes, phones, as well as productions from Facebook.
5 I think that encompasses most of them, yes.

6 Q And have you reviewed or ensured the accuracy of
7 these slides to make sure that they are consistent with the
8 original records themselves?

9 A I have.

10 Q And are they consistent?

11 A They are.

12 MR. MANZO: At this point, we'd seek to move in
13 6923 into evidence.

14 MR. WOODWARD: Subject to -- there's no objection.

15 THE COURT: Okay. 6903 will be admitted.

16 (Government's Exhibit 6903
17 received into evidence.)

18 BY MR. MANZO:

19 Q Agent, can you tell us what's going on here in the
20 first slide and the source generally of this slide in the
21 2000 series in the bottom left?

22 A This is a Facebook message from Tom Caldwell to an
23 individual named Adrian Grimes.

24 Q Let me stop you right there.

25 So when you see the 2000 number in the bottom

1 left, does that mean it came from Facebook?

2 A Yes. However, I know it from the original records
3 I reviewed, so that's how I'll refer to it probably.

4 Q And when you say "original records," what do you
5 mean by that?

6 A I mean the original Facebook production that we
7 got that I then compared these messages to for accuracy.

8 Q Understood.

9 Can you tell the jury what's going on in this
10 first slide here?

11 A Yes.

12 So this is a message from Tom Caldwell to
13 Adrian Grimes on November 7th, 2020.

14 Q Let me stop you right there for a second.

15 Is Adrian Grimes on the board when it says "1530"?

16 A He is not.

17 Q What does the message say?

18 A "Sharon and I are going to this rally tomorrow for
19 the President. It's a show of support. If we lose him from
20 the White House, our country is dead. They are asking that
21 folks Trump-train it over there with flags flying. This may
22 be the last hurrah or a final push to let people know we are
23 not going down easily. Next step, I guess, if the democrap
24 throw out the Constitution, is Civil War."

25 Q Agent, can we go to the next slide, please.

1 THE COURT: Ladies and gentlemen, that last
2 slide -- and you will get from time to time during this
3 trial the following -- an instruction of this kind, and
4 ultimately you will be told at the end of trial that certain
5 evidence is only being admitted against certain defendants
6 and you should only consider that evidence only against the
7 particular defendant against whom it is being admitted.

8 And that last slide is one such example of what
9 I'm talking about. That last slide reflecting a
10 communication from Mr. Caldwell to Mr. Grimes is only
11 admissible as to Mr. Caldwell and only may be consider as to
12 Mr. Caldwell.

13 I'll be giving you a few other instructions or
14 similar instructions as we look through some more of these
15 this morning, okay?

16 BY MR. MANZO:

17 Q Agent, we're at the second slide of this exhibit
18 now. And where you see the 1.S number in the bottom
19 left-hand corner, is that consistent with being from the
20 phone of Stewart Rhodes and S for Signal?

21 A Yes.

22 Q And the 376, what does that mean?

23 A That was the chat number or the chat group number
24 assigned to this "NC OK County Leaders" group in Signal.

25 Q Understood. So "NC OK County Leaders" corresponds

1 to the 376?

2 A Correct.

3 Q And the 338?

4 A Is the number of the message within that chat
5 group.

6 Q Can you tell the jury what's going on?

7 A This is a message from Ranger Smith to
8 "NC OK County Leaders," which, based on my investigation,
9 I know to be North Carolina Oath Keepers county leaders,
10 sent on November 8, 2020, at approximately 1:35 p.m.

11 Q And who's Ranger Smith? Is there another name for
12 him?

13 A Yes. His full name is George Douglas Smith. He
14 commonly goes by Doug Smith, Ranger Smith, Ranger Doug,
15 Ranger Smith Smith, I think I've seen his user name as in
16 Signal.

17 Q Can you read the message, please?

18 A "Stewart and I are in Virginia at a
19 "Stop the Steal" campaign. These campaigns will be
20 springing up nationwide. President Trump will not step
21 down. Oath Keepers will stand behind the President at every
22 level, state and national. We will be bringing the battle
23 to the enemy. Highly trained soldiers will be asked to step
24 forward and be prepared to travel to Washington, D.C. All
25 others will support these operations until we have secured

1 our constitution. God bless America and God bless the
2 American patriots."

3 Q Based on your investigation, are you aware of any
4 individuals who attended the meeting referred to here by
5 Ranger Smith?

6 A Yes.

7 Q Who?

8 A If I could -- Ranger Smith, based on my
9 investigation, also was the state leader of the Oath Keepers
10 from North Carolina. I know from my investigation that he
11 and Mr. Rhodes were at this "Stop the Steal" campaign in
12 Virginia, as was Mr. Caldwell.

13 Q Can we go to the next slide on page 3.

14 What are we looking at here on page 3? And when
15 it says "2006" in bottom left-hand corner, does that mean
16 it's from Facebook?

17 A Yes.

18 Q Can you tell the jury about Slide 3?

19 A This is another message from Tom Caldwell to
20 Adrian Grimes on November 9th.

21 And it says, "We are going to win this election.
22 I'll still praying. Was asked to be one of the speakers on
23 Sunday. Sharon recorded it. Hope I wasn't too weird. You
24 know how I am.

25 "Met some very interesting special operators

1 there, some of whom are coming back in town this week for an
2 op along the lines of what we discussed. Coming in numbers.
3 You and Kenny should meet them. I am helping with intel on
4 logistics. They are nationwide."

5 Q Just for the record, where it says "Kenny," that's
6 not Kenneth Harrelson, correct?

7 A Correct.

8 Q That's a Kenny that's not involved in this
9 investigation?

10 A I don't know who Kenny is.

11 Q What's the time and date of this message?

12 A 11/9/2020 at 8:42 p.m.

13 Q Can we go to the next slide?

14 A This is another message from Tom Caldwell to
15 Adrian Grimes from Facebook. Sent on November 14th, 2020,
16 at 2:46 a.m.

17 "Thanks for coming by today. It meant a lot.
18 Sure wish you were coming along tomorrow. If we cannot get
19 the President another term, we are well and truly fucked.
20 If we don't start mowing down masses of these shitballs,
21 they will come for all of us. It's kill or be killed, I am
22 afraid. I don't want to live in a communist country. I
23 kind of hope there is some shit tomorrow in some ways just
24 so we can get on with it."

25 MR. WOODWARD: Objection.

1 THE COURT: Ladies and gentlemen, this slide also
2 is only admissible against Mr. Caldwell.

3 BY MR. MANZO:

4 Q Are you aware of what happened after 11/14, 2020?

5 A I'm aware that the Million MAGA March was on
6 11/14. This message was sent at 2:45 a.m. So that is what
7 I assume he is talking about.

8 MR. MANZO: Can we go to the next page, please,
9 Ms. Rohde.

10 BY MR. MANZO:

11 Q What's going on here, Agent?

12 A This is another message from Facebook from
13 Todd Caldwell to two individuals with the last name of
14 Godbold, sent on November 16th, 2020, at 4:17 p.m.

15 Q What does the message say?

16 A "I was in and out of the middle of that throng and
17 actually found Sharon at 3rd Street and marched with her.
18 Then I took snap of us and the video I shared with you
19 before. At least a million. We could have burned the
20 Congress to the ground if we had wanted to."

21 Q Agent, do you know who Sharon is based on your
22 investigation?

23 A I know that Mr. Tom Caldwell's wife is named
24 Sharon.

25 Q And is 3rd Street a street in Washington, D.C.?

1 A It is.

2 MR. WOODWARD: Objection.

3 THE COURT: This slide, too, is also admissible
4 only against Mr. Caldwell.

5 BY MR. MANZO:

6 Q What's the time and date of this slide?

7 A 11/16/2020 at 4:16 p.m.

8 Q When again was the Million MAGA March?

9 A 11/14/2020.

10 Q Can we go forward now to the next slide.

11 Where you see the 22 in the bottom left-hand
12 corner does that mean it's a slide from Mr. Caldwell's
13 phone?

14 A Yes.

15 Q And does the T refer to a text?

16 A Yes.

17 Q Can you tell the jury what's going on here?

18 A I actually believe this is from Signal. It's a
19 Signal screenshot.

20 December 4th at 2020 -- December 4th, 2020, at
21 11:19 p.m., Mr. Caldwell sends a message to Paul Stamey, who
22 was over here, the Western State Lead.

23 "Ranger made me think, though he didn't say it in
24 so many words, that maybe I should be planning a much bigger
25 op, for like when we have to roll into town to actually save

1 the republic. It seems that the Ohio crew is considering
2 this next march next weekend so someone must have reached
3 out to them."

4 Q Based on your investigation, have you come across
5 anyone who goes by the name Ranger?

6 A Yes, that is Doug Smith, who's the North Carolina
7 state lead at the time.

8 Q And where it says "Stamey" in the right-hand
9 corner, who is Stamey?

10 A So that is Paul Stamey that I pointed out over
11 here.

12 Q Do you know his full name?

13 A Jeffrey Paul Stamey.

14 Q And when you say you pointed at, did you just
15 refer to the bottom right-hand picture on 1530?

16 A Yes, that individual.

17 Q What's going on here in the slide on 12/4/2020 at
18 11:45 p.m.?

19 A This is from Mr. Caldwell, again, to Paul Stamey,
20 to Oath Paul Stamey, I believe that is how Paul Stamey was
21 saved in Mr. Caldwell's phone in his Signal application.

22 "I have allied myself with you guys as you can
23 tell. I think I still have lot to give especially if you
24 start operating in my backyard as it were. Let me know
25 whatever you might need. If we have enough time before we

1 have to move in force would love to get down to work with
2 you or at least visit."

3 Q What state does Mr. Caldwell reside it in?

4 A He lives in Virginia.

5 Q Can we go to the next slide.

6 And just before we begin here, this is from -- on
7 the bottom left here it says, "1," then "S", so does that
8 mean it's from Stewart Rhodes' phone and it's a Signal
9 message?

10 A Yes.

11 Q Who sent the message and who received the message?

12 A This is a message from Ranger Smith, Doug Smith.

13 Q Where does he live?

14 A He lives in North Carolina.

15 Q And who's this to?

16 A NC members.

17 Q Who else lives in North Carolina on the board?

18 A Paul Stamey.

19 Q Agent, can you read the message?

20 A "I talked with SMG Retired Randy Earp today about
21 training on December 12th, at the Columbus County training
22 site. We will have a great training weekend. One thing we
23 are looking at vehicle operations, road blocks, vehicle
24 recovery, convoy operations. Not far from the training area
25 is a paved road through the green swamp. This would be a

1 great area to to train at real time, won't have hardly any
2 traffic on Sunday morning. We also want to train at setting
3 up hasty ambushes and reacting to ambushes, but the first
4 thing we are going to do is fall into a formation when we
5 assemble. This I believe will be a big time learning
6 weekend. Anyone who wants can come down Friday and set up
7 camp. We will probably put up our GP medium tent, if anyone
8 has an RV, there is plenty of room. Saturday night we will
9 try to cook up something good and enjoy each other. I look
10 forward to getting to know you all personally and I hope you
11 all get to know me. It is our time in history. We'd need
12 to know our brothers and sisters to our left and right.
13 Everyone take care and enjoy Thanksgiving. It could be the
14 last we ever have."

15 Q What's the time of this message?

16 A November 25th, 2020, at 9:06 p.m.

17 Q Going forward to the next slide now.

18 A I would also like to point out that Mr. Rhodes
19 because in that Signal group.

20 Q When you say, which Signal group is that?

21 A The NC members.

22 Q Here on this message between Diann Tomblin and
23 Mr. Caldwell with the notation on the bottom left in the
24 2000 series, what does that mean?

25 A That means that we are looking at a Facebook

1 exchange.

2 Q And what's the time and date of this message?

3 A December 20th, 2020, 7:44 a.m.

4 Q Is Diann on the board anywhere here?

5 A Diann is not on the board.n

6 Q What does the message say?

7 A "Presidential retweet. Thank you

8 @realDonaldTrump. We've got our back 100 percent.

9 #fightforTrump."

10 There's a link to a YouTube video that's titled
11 "Fight for Trump, save America, save the world."

12 MR. WOODWARD: Objection.

13 THE COURT: Skip to the next slide.

14 BY MR. MANZO:

15 Q Does Mr. Caldwell respond?

16 A Yes, he responds, "Yeah, but what are we supposed
17 to do? Tell me who to shoot first and I'm all in."

18 THE COURT: Okay. Ladies and gentlemen, these
19 last two slides, like the earlier instruction I provided,
20 are only admissible against Mr. Caldwell.

21 BY MR. MANZO:

22 Q Were there any messages in between the posting of
23 the YouTube video and Mr. Caldwell's response of, "Yeah, but
24 what are we supposed to do? Tell me who to shoot first, and
25 I'm all in"?

1 A No.

2 Q Can we go to the next slide, please.

3 What's going on here?

4 A This is a Signal message from Paul Stamey to
5 Tom Caldwell on 12/21/2020, and he is sending a link to the
6 first letter that Stewart Rhodes wrote to President Trump,
7 I believe it was on December 14th of 2020.

8 Q And where is Mr. Stamey from again?

9 A North Carolina.

10 Q Can we go to the next slide.

11 What are we looking at here?

12 A This is Mr. Caldwell sharing this post. "Open
13 letter to President Trump from Oath Keepers Founder
14 Stewart Rhodes and Kellye SoRelle."

15 Do you want me to read the whole link?

16 Q That's okay. And he's sharing this on Facebook?

17 A Correct.

18 Q What's the time and date of this message?

19 A 12/22/2020 at 2:38 a.m.

20 MR. MANZO: Ms. Rohde, can we go back one slide?

21 BY MR. MANZO:

22 Q When did Mr. Stamey send Caldwell the letter?

23 A On December 21st, 2020, at 5:44 p.m.

24 Q Can we go forward again. And one more.

25 MR. WOODWARD: Objection to the last slide.

1 THE COURT: It's overruled.

2 Oh, I'm sorry, can you just go back.

3 It's overruled.

4 BY MR. MANZO:

5 Q Agent, what are we looking at here on the
6 communication of 12/22/2020?

7 A This is a Signal message from Tom Caldwell to
8 Doug Smith, sent on December 22nd, 2020, at 8:50 a.m.

9 Q What does it say?

10 A "Spoke with Paul last night. I will be at the
11 march on the 6th. I have booked a hotel room in Arlington.
12 We do not yet know what may go down, but this room gives us
13 a spot to stage materials should things go high order. 10
14 minutes from the Potomac. Sharon and I will be there 5th
15 and 6th. Wanted you to know this for contingent planning.
16 Close hold you and Paul only for now, please."

17 Q And, again, what state is Doug Smith from?

18 A North Carolina.

19 Q And is there a Paul in your investigation whose
20 also from North Carolina?

21 A Yes.

22 Q Who's that?

23 A Paul Stamey.

24 Q Can we go to the next one.

25 What are we looking at in this slide on

1 12/29/2020?

2 A This is a message from Tom Caldwell to an
3 individual saved in Mr. Caldwell's contacts as "Trees Shawn
4 Pugh."

5 Q What does the message say?

6 A "Shawn, are you and any of your fellow Three
7 Percenters having any kind of meetings coming up to discuss
8 the 6th of Jan in D.C. or just getting together. I would
9 like to meet some of the guys if you think I'm cool enough."
10 Smiley face.

11 Q Does the 22 in the bottom left-hand corner mean
12 this is from Mr. Caldwell's phone?

13 A Correct.

14 Q Without going into any detail, are you aware of
15 what of -- of where some Three Percenters were on
16 January 6th?

17 A In D.C.

18 Q And more specifically were they --

19 A At the Capitol.

20 MR. WOODWARD: Objection.

21 THE COURT: It's overruled.

22 MR. MANZO: Can we go to next slide.

23 MR. WOODWARD: Can we get on the phone?

24 (Bench conference)

25 MR. WOODWARD: I don't believe the government is

1 arguing that Trees Shawn Pugh was a co-conspirator.

2 THE COURT: I'm sorry.

3 MR. WOODWARD: I don't believe the government is
4 arguing that Trees Shawn Pugh is a co-conspirator.

5 THE COURT: No, but this is a communication with
6 somebody who's, I assume, identified with the Three
7 Percenters, another group that's come to Washington, and
8 he's reaching out to potentially collaborate with them.
9 I think it's clearly a co-conspirator statement. It doesn't
10 only have to be with other co-conspirators.

11 MR. WOODWARD: It does have to be, we would humbly
12 submit, that it does have to be with somebody who is -- the
13 government has proven is part of the conspiracy --

14 THE COURT: No, that's not --

15 MR. WOODWARD: -- against which is being alleged?

16 THE COURT: That is not true.

17 A co-conspirator statement can be uttered to a
18 person that's not identified as part of the conspiracy if
19 it's in furtherance of the conspiracy. So, for example,
20 granting improvement, in this case, collaboration with
21 another group, planning. So the fact that he's not "on the
22 board" doesn't take it out of co-conspirator statement
23 world.

24 MR. WOODWARD: No, the fact that it's on the board
25 does not. But Mr. Pugh needs to -- the government needs to

1 establish through independent evidence that Mr. Pugh is part
2 of this conspiracy.

3 THE COURT: No, Mr. Woodward, that is not
4 accurate.

5 MR. WOODWARD: Okay.

6 THE COURT: Okay. There's case law, I can't
7 remember whether we dealt with earlier in this case, that
8 says a co-conspirator's -- a statement to someone who's
9 outside the conspiracy can still be considered a
10 co-conspirator's statement so long as it's in furtherance of
11 the conspiracy, whether it be for recruiting purposes, in
12 this case, organizing purposes, the person does not have to
13 be part of the conspiracy so long as the statement -- as
14 long as the declarant is and the statement is in furtherance
15 of the conspiracy, which I would say this one clearly is.

16 MR. WOODWARD: Thank you, Your Honor.

17 THE COURT: Okay.

18 (Open court)

19 THE COURT: So the objection is overruled.

20 BY MR. MANZO:

21 Q Looking at this slide now on 12/29/2020, can you
22 tell the jury what's going on?

23 A This is a Signal message from Tom Caldwell to Doug
24 Smith at 11:40 p.m.

25 Q This is from Mr. Caldwell's phone?

1 A Yes.

2 Q You know that by the 22 on the bottom left-hand
3 corner?

4 A Yes.

5 Q What's going on here?

6 A "Yes. Paul will contact you tomorrow. We're
7 kicking around an idea."

8 That's a message from Tom Caldwell to Doug Smith.

9 Q Can we go to the next.

10 What's happening now at 12/30/2020?

11 A This is a series of text messages that we actually
12 obtained from Ms. Watkins' phone from Tom Caldwell to
13 Jess Watkins.

14 Q And before you begin, can you point to Ms. Watkins
15 on the board?

16 A (Witness complied.)

17 Q So you've pointed to the picture as
18 Jessica Watkins or "Cap" underneath her?

19 A Yes. The picture with "Ohio" next to it.

20 Q Thank you. That's on 1530.

21 Agent, can you read this message?

22 A Yes.

23 "Talked to Paul. At least one full bus, 40 plus,
24 people coming from NC. Another group (unclear if
25 Mississippi guys), also a bus. Buses have their own lane on

1 the 14th Street bridge, so they will be able to get in and
2 out.

3 "Paul is driving plus 1 and arriving night before.
4 As we speak, he is trying to book a room at Comfort Inn
5 Ballston/Arlington because of it's close in location and
6 easy access to downtown because he feels, 1, he's too broken
7 down to be on the ground all day and, 2, he is committed to
8 being the Quick Reaction Force and bringing the tools if
9 something goes to hell. That way the boys don't have to try
10 to schlep weps on the bus. He'll bring them in his truck
11 day before.

12 "Just got a text from him. He was able to book a
13 room in that hotel I recommended, which is on Glebe Road in
14 Arlington. However it goes, it will be great to see you
15 again. I sure hope your arm is getting better."

16 Q Can we go to the next slide.

17 What's going on here at 12:30 on 20/20?

18 A This is another Signal message from Tom Caldwell's
19 phone from Paul Stamey to Tom Caldwell at 12/30/2020 at
20 4:09 p.m.

21 "Booked Room 252, 5 and 6th."

22 Q Can we go to the next.

23 How does Mr. Stamey respond?

24 A Mr. Stamey sends an additional message to
25 Mr. Caldwell that says, "Name: [AAA Burner]," with a mobile

1 phone number (980)318-1486. Home: Charlotte,
2 North Carolina.

3 Q Are you aware, based on your experience in the
4 FBI, what a burner phone is?

5 A I am.

6 Q What is a burner phone?

7 A It is typically a phone that you will have
8 temporarily, that you can use easily dispose of.

9 Q And I'd like to hand up to you physical item 24,
10 which I believe we've already published to the defense.

11 THE COURT: I'm sorry. What was the number again,
12 Mr. Manzo?

13 MR. MANZO: 24, please.

14 BY MR. MANZO:

15 Q Agent, do you have item 24 or Exhibit 24 in front
16 of you?

17 A I do.

18 Q What does Exhibit 24 consist of?

19 A It consists of a legal notepad with some notes on
20 it, two folders, a piece of paper with an email address
21 written on it, and a 2021 calendar pocket book.

22 Q Where were these items recovered from?

23 A They were recovered from Mr. Caldwell's residence.

24 MR. MANZO: Your Honor, at the point I'd like to
25 read a stipulation that the parties have agreed to.

1 The parties have agreed to the following evidence
2 and that it was obtained lawfully pursuant to a
3 court-authorized search warrant or subpoena or consent on or
4 about the dates listed below.

5 On January 19th, 2021, the FBI collected the
6 following items of evidence from Defendant Caldwell's home:

7 Exhibit 24, handwritten notes and documents.

8 On September 30th, 2021, the FBI collected the
9 following items of evidence from Jeremy Brown:

10 Exhibit 205, black Android phone. Forensic
11 examiners from FBI CART connected the cellular telephone
12 labeled Government's Exhibit 205 to an exam machine and used
13 the data extraction and processing tools to create a master
14 copy forensic image and acquisition of the data on the
15 phone. The parties agree and stipulate that this master
16 copy forensic image consists of authentic data that was contained
17 in Government's Exhibit 205 at the time it was collected on
18 September 30th, 2021.

19 3, on June 9, 2021, the FBI collected the
20 following evidence from Edward Vallejo:

21 Exhibit 210. Description: One black Motorola
22 Moto cellular telephone. Forensic examiners from FBI CART
23 connected the cellular phone labeled the Government's
24 Exhibit 210 to an exam machine and used data extraction and
25 processing tools to create a master copy forensic image of

1 the data on the phone at the time. The parties agree and
2 stipulate that the master copy forensic image consists of
3 authentic data that was contained on Government's
4 Exhibit 210 at the time it was collected on June 9, 2021.

5 And this is Government's Exhibit 3000E, which
6 we'll move into evidence with the other stipulations at the
7 end of the government's case.

8 BY MR. MANZO:

9 Q Agent, before you, are those items that were
10 collected from the residence of Thomas Caldwell?

11 A Yes.

12 MR. MANZO: And at this point, Your Honor, I'd
13 seek to move in Government's Exhibit 24.

14 MR. FISCHER: No objection.

15 THE COURT: It will be admitted.

16 (Government's Exhibit 24
17 received into evidence.)

18 BY MR. MANZO:

19 Q First, looking at the small calendar, can you go
20 to the January section.

21 Just for the agent only, all of these.

22 Agent, looking at the January section of the
23 notebook there and Government's Exhibit 24.1, what is
24 Government's Exhibit 24.1?

25 A It is a photograph of what I'm looking at here in

1 the actual calendar notebook.

2 Q Can you just hold up the physical notebook for the
3 jury?

4 A The page?

5 Q Yes, the page.

6 A (Witness complied.)

7 Q You can put it down.

8 And is the photo a fair and accurate
9 representation of the page of the notebook that you're
10 looking at?

11 A It is.

12 MR. MANZO: Your Honor, we would seek to move in
13 24.1 into evidence.

14 MR. FISCHER: No objection.

15 THE COURT: 24.1 will be admitted.

16 (Government's Exhibit 24.1
17 received into evidence.)

18 BY MR. MANZO:

19 Q Agent, can you look at 24.1, the calendar that was
20 collected from the residence of Mr. Caldwell. Can you read
21 and zoom in on the notation of the April 2.

22 Agent, can you read the handwritten notation just
23 underneath January 2021?

24 A "April 2 is drop dead for burner. PW1963,
25 number (540) 931-7979.

1 MR. MANZO: And can you click out, Ms. Rohde.

2 And then can you zoom in on the section exactly
3 where you are.

4 BY MR. MANZO:

5 Q And now we're in the first week of the
6 January 2021 month. Can you read the handwritten notes
7 here.

8 A On the left under Sunday, it says, "Lance Strong,"
9 in the center. "Airtime PIN TracPhone, 266051500391389."

10 Serial number of phone, "356074104300772."

11 Do you want me to read the SIM card also?

12 Q Yes?

13 A "SIM card No. 89148000006311969446."

14 And to the right, it says, "Signal code is
15 718-347."

16 MR. MANZO: Ms. Rohde, can you do the final row of
17 that.

18 BY MR. MANZO:

19 Q What are we looking at here in the first week of
20 January row?

21 A To the left, it says, "PIN 1963." Then, "New
22 Gmail, Lance Strong." I believe it says, "1925@gmail. PW:
23 Fuckyousocialistfucks2021!"

24 Q And just going up now to where it says, "Airtime
25 PIN TracPhone," Agent, are you aware of what a TracPhone is?

1 A Yes.

2 Q What is a TracPhone?

3 A It is also a type of disposable-type phone.
4 TracPhone, I think, can be sold and used on the various cell
5 providers that we've talked about.

6 Q And what are some of the benefits of using a
7 disposable-type phone?

8 A It's not as easily traceable. The subscriber
9 records are not readily available to law enforcement. And
10 that you can basically throw it away.

11 Q Are you familiar with Signal generally?

12 A Yes. Not until this case.

13 Q Can you describe the encryption on Signal?

14 A So I understand that Signal is encrypted on both
15 ends up so that the message is only readable from the sender
16 and the recipient.

17 Q So if you wrote out an affidavit for probable
18 cause, took it to judge, the judge signed it and executed a
19 search warrant on Signal --

20 THE COURT: Mr. Manzo, I think the jury is well
21 aware of how this all works now. Let's move forward.

22 BY MR. MANZO:

23 Q If there were messages on a TracPhone that was
24 disposed, would the government be able to recover those?

25 A If they were sent via the Signal app?

1 Q Correct:

2 A No.

3 Q Is there a small piece of paper also contained in
4 Government's Exhibit 24?

5 A Yes.

6 Q Can you just publish that to the jury.

7 A (Witness complied.)

8 Q What does that piece of paper say?

9 A "ProtonMail info, email
10 minecraftgamer98@protonmail.com. Password: G4NY!2VPM747#."

11 Q Are you familiar with that email?

12 A Yes.

13 Q Who else also had that email?

14 A This email address and password were also
15 recovered from the home of Ms. Watkins.

16 Q Can we go now back to the main exhibit of 6923.

17 And can we go to the next slide.

18 What's going on here?

19 A So this is a third message, set in succession here
20 from Paul Stamey to Tom Caldwell, referring back to the
21 Room 252 that he had confirmed that he had booked and then
22 says, "Same Comfort Inn."

23 Q Does Mr. Caldwell respond?

24 A Yes.

25 Q Can we go to the next slide.

1 What happens here?

2 A This is Mr. Caldwell's response at 4:21 p.m.:

3 "That's great. Hope that's an inner room so you can have
4 your eyes on the courtyard where your vehicle will be
5 parked. I'm trying to get Jessica to get a room or two.
6 She has a total of 5, including her. Time was that I would
7 rent to room with two queen beds and a rollaway so the motel
8 would know we had three and just let the other 2 stay as
9 well. Typical sailor, huh."

10 Q Are you aware of anyone in this investigation
11 named Jessica?

12 A Yes.

13 Q Who?

14 A Jessica Watkins.

15 Q Can we go to the next page.

16 Can you describe for the jury what's going on
17 here?

18 A This is now a Signal message from Mr. Caldwell to
19 Doug Smith, sent on January 1st, 2021, at 2:53 a.m.

20 "Happy New Year, brother. It's going to be a
21 great 2021. I will see you in D.C. I am coordinating with
22 Paul and I think he's got a solid plan. We will both be
23 staging at the same locale. What else can I do for you? If
24 there's anything, let me know."

25 Q Can we go to the next slide.

1 Before we begin here, do you see the 2001 at the
2 bottom of the left-hand corner?

3 A Yes.

4 Q What does that mean?

5 A That means these are Facebook records.

6 Q And looking at this slide here, what's going on?

7 A This is from Mr. Caldwell's Facebook on
8 12/31/2020, 4:06 p.m., and he is replying to a comment that
9 someone else posted.

10 Q And what does Mr. Caldwell say?

11 A "It begins for real Jan. 5 and 6 on Washington,
12 D.C. when we mobilize in the streets. Let them try to
13 certify some crud on Capitol Hill with a million or more
14 patriots in the streets. This kettle is set to boil."

15 Q Now, when you received these records, or when the
16 government received these records from Facebook, was the
17 underlying comment available?

18 A It was not.

19 Q What's the time and date of this message?

20 A December 31st, 2020, 4:06 p.m.

21 Q And is John McGraw anywhere on 1530?

22 A He is not.

23 MR. WOODWARD: Objection.

24 THE COURT: Go to the next slide.

25 Go ahead, Mr. Manzo.

1 BY MR. MANZO:

2 Q Agent, what's going on here in the next slide?

3 A This is another comment posted by Tom Caldwell to
4 Facebook in response to either the same or a different
5 comment by John McGraw, January 1st, 2021, at 1:48 p.m.

6 Q What does he say?

7 A "I swore to support and defend the Constitution of
8 the United States against all enemies, foreign and domestic.
9 I did the former, I have done the latter peacefully, but
10 they have morphed into pure evil even blatantly rigging an
11 election and paying off the political cast."

12 Q Is this a continuation of the previous comment?

13 A It is.

14 Q What does Mr. Caldwell say?

15 A "We must smite them down and drive them down."
16 I'm sorry, "We must smite them now and drive them down."

17 MR. WOODWARD: Objection.

18 THE COURT: Okay. Ladies and gentlemen, that
19 series of three messages in which Mr. Caldwell is posting to
20 Facebook in response to Mr. McGraw, those are all admissible
21 only against Mr. Caldwell. In addition, you'll notice
22 there's a blacked-out portion on one of the slides. That
23 was done upon my order, and so you should not speculate as
24 to what may be behind that, what's called a redacted portion
25 or the reason for why it was redacted. Okay?

1 BY MR. MANZO:

2 Q Can we go to the next slide, please.

3 What's going on here?

4 A This is a -- the same message that we saw earlier
5 from Tom Caldwell to Doug Smith 1/1 at 2:53 a.m.

6 Q And we can go to the next one.

7 We're looking at a message here on 1/1/2021 and
8 this is from Facebook; is that correct?

9 A Yes.

10 Q What's going on?

11 A This is from Adrian Grimes to Tom Caldwell.

12 "Trump will win on the 6th. If not I'm personally
13 going to start the Civil War myself. So fucking tired of
14 these libtards."

15 Q Is Adrian Grimes anywhere on the chart?

16 A He is not.

17 Q Can we go to the next slide?

18 A This is a response from Tom Caldwell to
19 Adrian Grimes, 1/1/2021 at 2:29 p.m. "I'm starting the night
20 of the 6th if necessary."

21 MR. WOODWARD: Objection.

22 THE COURT: Those two slides, ladies and
23 gentlemen, are also admitted only against Mr. Caldwell.

24 BY MR. MANZO:

25 Q Were there any messages in between the previous

1 slide where Mr. Grimes says he's going to personally start a
2 Civil War and the followup slide where Mr. Caldwell says
3 he's "starting the night of the 6th if necessary?"

4 A There weren't.

5 Q Can we go to the next slide.

6 THE COURT: Actually --

7 BY MR. MANZO:

8 Q Is this another message?

9 THE COURT: Counsel, can you get on the phones?

10 (Bench conference)

11 THE COURT: On further reflection I think those
12 last two slides come in as under 803(3), the existing state
13 of mind or emotional, physical condition as it goes to
14 motive, intent to plan. Mr. Caldwell is indicating he's
15 planning to take action on the 6th, so I do think it's not
16 limited to him. Any disagreement?

17 MR. WOODWARD: I was wrong before, Your Honor.
18 I've found the cases.

19 THE COURT: All right.

20 MR. CRISP: Before we jump off hill, there's one
21 quick thing we want to do about the group. We don't know
22 who the group is.

23 MR. GEYER: I'm sorry, Your Honor, this is
24 Brad Geyer.

25 I don't think it matters but the earliest they can

1 say Caldwell join was January 3rd, but I agree it probably
2 doesn't matter. Thank you.

3 THE COURT: Okay. I'm not quite sure I understand
4 that fully. Maybe that's the time he joined a particular
5 chat group, but in any event, okay. So I'm going to retract
6 the limiting instruction for those two last two slides,
7 okay?

8 MR. CRISP: The issue I was going to raise now so
9 we don't have to get back on is we're talking about the
10 group and there's another reference to another one in
11 "group." We don't know what group that is to, so I wanted
12 to be somewhat prophylactic here on the phone, the
13 government can identify which group.

14 MR. MANZO: Yes, I can. It will just take me a
15 few seconds to pull it up on my computer. It's a number of
16 people. I wasn't planning on getting into it. The group
17 does not contain other members that are "on the board" so we
18 would not -- but it does contain Caldwell so we were not
19 going to go into details about who those people were, but
20 I'm happy to flesh it out.

21 MR. CRISP: Are we stipulating then it does not
22 apply to the other co-defendants? Again, if that's the
23 case, then we're fine.

24 MR. MANZO: Yes, only Mr. Caldwell is on that
25 chain. There's a number of other third parties.

1 THE COURT: Okay.

2 MR. WOODWARD: Your Honor, if we could go back to
3 the two prior slides. One is by Mr. Caldwell so I agree
4 with the Court that statements of his intent or attempting
5 to recruit members would come in. The other is by
6 Ms. Grimes, and that statement is not one, Ms. Grimes is not
7 alleged to be part of the conspiracy, she's not alleged to
8 have --

9 THE COURT: Right, but it's the message
10 immediately preceding Mr. Caldwell's to which he responds.
11 So I think it's admissible under 106 to provide context for
12 Mr. Caldwell's statement.

13 MR. WOODWARD: Okay. We appreciate the Court's
14 position but respectfully object.

15 THE COURT: Okay.

16 (Open court)

17 THE COURT: Ladies and gentlemen, so those last
18 two slides I told you that were only admissible by
19 Mr. Caldwell, I retract that limiting instruction. Those
20 two slides are not just admitted only against him, they're
21 admitted against all defendants.

22 BY MR. MANZO:

23 Q Okay, Agent, we're looking at a message now on
24 1/1/21; is that correct?

25 A Yes.

1 Q Who's the message from?

2 A An individual by the name of Joe Godbold.

3 Q And it's to a group; is that correct?

4 A Yes.

5 Q And other than Mr. Caldwell, is any other person
6 involved in this case on that group?

7 A Not that I'm aware of.

8 Q What does the message say?

9 A "Yeah, that's what I'm thinking as well. Can't
10 ever trust anything you hear anymore. I just hope Pence
11 will stand true and do the right thing on the 6th. He
12 worries me a bit."

13 Q Is there a response?

14 A Yes.

15 Q Who responds?

16 A This is now from an individual named Dennis
17 Godbold.

18 "Total bullshit. Pence will do the right thing."

19 Q What's the time and date?

20 A January 1st, 2021, at 8:32 p.m.

21 Q Is there a followup to that?

22 A Yes. This is again from Dennis Godbold.

23 "I certainly hope so. He always plays
24 Mr. Politically Correct Nice Guy. Hope he has a big set of
25 balls when we need them. And we need them more now than

1 ever."

2 Q Is there another followup?

3 A There is.

4 This is from Mr. Caldwell to that same group at
5 8:51 p.m. on January 1st. "If he hopes to live till Friday
6 he better stand tall."

7 I believe Friday was January 8th, 2021.

8 Q Okay. Can we go forward now to the next slide?

9 THE COURT: Ladies and gentlemen, those four,
10 I think, it was four, slides involving the group are
11 admitted only against Mr. Caldwell.

12 BY MR. MANZO:

13 Q What are we looking at here in this slide? And
14 this is again from 1.S in the bottom left-hand corner
15 so it's a Signal message from Mr. Rhodes' phone;
16 is that correct?

17 A Correct.

18 Q What are we looking at here?

19 A We are looking at an invite for a GoToMeeting sent
20 from Don, who I know to be Don Siekerman, to the
21 "D.C. Op Jan. 6, '21" Signal group.

22 Q Is Don Siekerman on 1530?

23 A He is.

24 Q Can you point to him briefly?

25 A He is the top right individual under "Leadership."

1 Q And what is GoToMeeting?

2 A GoToMeeting is, I think, probably most similar to
3 Zoom or -- but I believe it's audio only. You dial in, a
4 conference call.

5 Q Have you performed an analysis of those
6 GoToMeeting records for the period directly before
7 January 6th?

8 A I have.

9 Q And do you receive GoToMeetings in a somewhat
10 difficult to read format?

11 A Yes.

12 Q Can you describe what they look like?

13 A They're voluminous records. They are produced in
14 an Excel spreadsheet type form, but the columns are
15 oftentimes difficult to understand and read. It takes a bit
16 of a manual process to go through.

17 Q Just for the agent, can we pull up 6900.

18 Agent, do you recognize what Government's Exhibit
19 6900 is?

20 A Yes.

21 Q What is Government's Exhibit 6900?

22 A It's a summary exhibit that I prepared of three
23 specific GoToMeetings that were derived from those
24 underlying records I just talked about.

25 MR. MANZO: Your Honor, I believe the underlying

1 records have already been marked for identification or
2 admitted into evidence, so at this point we'd seek to admit
3 the --

4 MR. GEYER: Objection.

5 (Bench conference)

6 MR. GEYER: Your Honor --

7 THE COURT: Hang on, Mr. Geyer.

8 Okay. Go ahead.

9 MR. GEYER: So Kenneth Harrelson was not on the
10 chat until the early evening of January 3rd so he did not
11 receive that notification, they didn't think to include him.
12 He wasn't, in fact, on that January 1st date, but they just
13 commingled it, they just commingled it with the other two
14 meetings. So I object to that slide. It should be dealt
15 with separately.

16 THE COURT: So what are you suggesting that the
17 entry for January 2nd at 7:00 p.m. labeled
18 "D.C. Planning Call," that having Mr. Harrelson on it is
19 inaccurate?

20 MR. GEYER: Yeah, I'm suggesting there's something
21 conflation here.

22 THE COURT: I'm not worried about conflation.
23 I want to know whether you think it is inaccurate to have
24 Mr. Harrelson on that call on January 2nd.

25 MR. GEYER: No. The second is accurate,

1 Your Honor.

2 THE COURT: I'm sorry?

3 MR. GEYER: The second is accurate. It's the
4 first.

5 THE COURT: He's not listed as being on the call
6 on the 1st.

7 MR. GEYER: The email that went out on the 1st he
8 was not included in.

9 THE COURT: No. I understand that, but --

10 MR. GEYER: Okay.

11 THE COURT: But, you know, I think it's pretty
12 clear from the summary exhibit who was actually on the call
13 on the 1st, and you can ask the agent whether he would have
14 been on the email that went out. But I think the purpose of
15 this is simply to summarize who's on the three calls that
16 are on this summary.

17 MR. GEYER: Okay. Thank you, Your Honor.
18 Thank you.

19 THE COURT: Yes.

20 (Open court)

21 MR. MANZO: Ms. Rohde, would you mind zooming in
22 on the top portion of the exhibit.

23 THE COURT: So 6900, any objection to its
24 admission?

25 MR. WOODWARD: No objection.

THE COURT: 6900 is admitted. It can be published if it isn't already.

(Government's Exhibit 6900
received into evidence.)

BY MR. MANZO:

Q Agent, can you describe what we're looking at here in the row that begins 1121?

A Yes. This is the meeting information from that GoToMeeting call. You can tie the meeting ID from this column back to that invite that Mr. Siekerman had posted to the "D.C. Op" chat.

The change that I made converted the time to Eastern Time from the GoToMeeting records.

Q And when we go over to the right part of this exhibit where it says, "Participant ID," what does that mean?

A That is the participant ID provided by GoToMeeting
for the participants in the meeting.

Q And then when you go down that column, are you able to identify the true identities of the individuals in the participant ID?

A Yes.

Q How are you able to do that?

A Don S. was the organizer of this meeting.

Don Siekerman shared that invite in the "D.C. Op" chat.

1 Kelly Meggs, by his phone number.

2 "Hydro AL" was a known moniker for Joshua James
3 that we discovered during our investigation.

4 Marlin Brandys, I interviewed an individual named
5 Marlin Brandys.

6 Q And he's not anywhere on this board, correct?

7 A He is not.

8 Q Can we go to the second row here?

9 A I should say, too, the number -- approximate
10 number of attendees is a calculation that I did. Again, the
11 records can be a little bit confusing. Some people appear
12 to be logged in more than once. I tried to de-duplicate,
13 but it is an approximate number of attendees.

14 Q What does the second row have here?

15 A This is another GoToMeeting call. This is, again,
16 based on the same records that we received on the 2nd of
17 January, titled "D.C. Planning Call" that lasted for
18 approximately 55 minutes.

19 Q Were you able to identify anyone who attended this
20 meeting?

21 A Yes.

22 Q Can you go to the right and just read down the
23 first -- actually, all the names?

24 A Kelly Meggs, Kenneth Harrelson, David Moerschel,
25 Caleb Berry, Jason Dolan, Graydon Young, Terry Cummings,

1 Alondra Propes, Kenneth Bittner.

2 Q Can you go down to the third row now.

3 What is this third row?

4 A This is an additional meeting that was a
5 GoToMeeting that was held on January 3rd, 2021. We'll
6 eventually see that invite posted in the "D.C. Op" chat as
7 well. It lasted for approximately 124 minutes and
8 approximately 22 attendees on this one.

9 Q And what attendees were on this call?

10 A Don Siekerman, Stewart Rhodes, Kelly Meggs,
11 Kenneth Harrelson, Joshua James, Mark Grods, Michael Greene,
12 and Marlin Brandys.

13 Q Can we go back to 6923 now, please.

14 And can we go to the next slide.

15 What's the time and date of the slide?

16 A January 2nd, 2021, at 5:49 a.m.

17 Q Is this a Signal message from Stewart Rhodes'
18 phone?

19 A It is.

20 Q Who's this message from?

21 A From OK Gator 1, which I know to be Kelly Meggs.

22 Q Can you point to Kelly Meggs on the board?

23 A Kelly Meggs is next to the word "Florida" under
24 Stack 1.

25 Q What does Mr. Rhodes state?

1 A "We have rooms already in D.C."

2 Q Can we go to the next slide?

3 A This is a response from Mr. Rhodes.

4 Q What did you say?

5 A Actually, I think these might be out order.

6 "Hey, how many hotel rooms does your FL team need?

7 Don has an OK credit card he can use to get rooms."

8 Q And the next slide?

9 A "We are staying in a good hotel outside D.C. in
10 Vienna."

11 This is, again, Mr. Rhodes to Kelly Meggs.

12 Q And the next slide?

13 A And this is the response from previously.

14 "We have rooms already in D.C."

15 Q You can tell from my error it's sequentially
16 numbered in the bottom left-hand corner?

17 A Correct.

18 Q Can we go to the next slide.

19 What does this say?

20 A This is, again, from Kelly Meggs to
21 Stewart Rhodes.

22 "Where we stayed last name. Has a great
23 underground parking garage with a full chain-link gate that
24 requires room key to access."

25 Q Now, can we go to the next slide.

1 What happens here?

2 A This is a response from Stewart Rhodes to
3 OK Gator 1.

4 "If you want" --

5 Q What does it say?

6 A "If you want to stow weapons with Whip, you can.
7 He'll have a secure car trunk or his hotel room (or mine)."

8 Q Can we go to the next.

9 Does Gator 1 respond?

10 A Yes.

11 Q And who is Gator 1 again?

12 A Whip is also part of the leadership. He's the
13 middle.

14 Q Apologies.

15 What's said by OK Gator 1 here on 1/2/21 at
16 5:51 a.m.?

17 A "Last night call with Don, we discussed a QRF RP.
18 So we may do that. As well the NC team has a hotel room
19 close by."

20 Q Are you aware of what RP is an abbreviation for?

21 A In this case, it refers to rally point.

22 Q Can we go to the next slide.

23 Did Mr. Rhodes respond?

24 A Yes.

25 Q What does he say?

1 A "OK. We will have a QRF. This situation calls
2 for it."

3 Q What's the time and date of this slide?

4 A January 2nd, 2021, at 5:52 a.m.

5 Q Okay. Can we go to the next one.

6 I want to pause for a second.

7 Who's Molon Labe?

8 A Molon Labe is Brian Ulrich.

9 Q How were you able to identify this person?

10 A So these Signal messages came from Joshua James'
11 phone. The phone number associated with Molon Labe belongs
12 to Brian Ulrich.

13 Q And who is Joshua James?

14 A Joshua James is Hydro AL. Or on this board, he is
15 the -- next to the word "Southeast" in Stack 2.

16 Q So you're looking at 1530, and you picked out
17 Joshua James in the Southeast column; is that correct?

18 A Correct.

19 Q Where is Molon Labe?

20 A Molon Labe is at the bottom right in that same
21 column.

22 Q What does Mr. Molon Labe, or Mr. Ulrich, say in
23 this Signal message?

24 A "Hey, we told to bring guns and maybe stage them
25 in Virginia? But you are showing hotels in D.C. for

1 Alabama. Are we bringing guns or no? If so, how will that
2 work?"

3 Q What's the time of this message?

4 A 6:29 p.m.

5 Q Can we go to the previous slide.

6 What's the time of the previous slide here with
7 Mr. Rhodes' statement?

8 A 5:52 a.m. on January 2nd.

9 Q Can we go forward.

10 And can we go forward again.

11 What does Mr. James say in reply?

12 A "We're working on a farm location. Some are
13 bringing long rifles, some firearms. I'm bringing sidearm."

14 Q And can we go to the next slide.

15 What's going on here on 1/2/21, at 5:53 a.m.?

16 A So this is the ongoing Signal conversation between
17 Kelly Meggs and Stewart Rhodes.

18 Kelly Meggs says, "Yes, we have the overlay maps
19 of street closures, and it looks like Lincoln is our rally
20 point of SHTF."

21 I believe he means "shit hits the fan."

22 "Lots of access roads on the edge of main area."

23 Q Can we go to the next slide. What happens here?

24 A Stewart Rhodes responds, says, "Cool. That's
25 good. Both in and out is very useful. I will reimburse you

1 for them. Just let me know how much."

2 Q Can we now go forward to the next message.

3 What's happening here?

4 A This is a message from Kelly Meggs to the
5 "D.C. Op Jan. 6, '21" chat that we've talked about
6 previously, sent on January 2nd, 2021, at 6:28 a.m. So it
7 was shortly after this conversation that we just reviewed
8 with Mr. Rhodes.

9 Q What does the message say?

10 A "Good call last night. Lots covered. I'll get
11 with NC team today and find out QRF location."

12 Q Are you aware of what the call is that Mr. Meggs
13 is referring to?

14 A This -- the call that happened the night before
15 was that January 1st, 2021 GoToMeeting that we saw on that
16 summary exhibit.

17 Q In 6900?

18 A Correct.

19 Q Can we go forward to the next slide.

20 What's going on here?

21 A This is now a message from Paul Stamey to
22 Tom Caldwell.

23 Q What did he say?

24 A "FLA," Florida, "2 men left back, 12 to 15 going
25 in D.C."

1 Q What's the time and date?

2 A January 2nd, 2021, at 5:43 p.m.

3 Q Okay. Can we go to next slide, please.

4 Who responds?

5 A So this is now back to the "D.C. Op Jan. 6" chat
6 from Kelly Meggs.

7 He says, "1 if by land, north side of Lincoln
8 Memorial. 2 if by sea. Corner of West Basin and Ohio is a
9 water transport landing."

10 Q And can we go to the next slide.

11 What does Kelly Meggs say here?

12 A "QRF rally points, water if the bridges get
13 closed."

14 Q What's the time and date?

15 A January 2nd, 2021, at 5:43 p.m.

16 Q Is this back in the Stewart Rhodes, again, Signal
17 message chat D.C. Jan 6 op?

18 A It is in -- yes, this message was received by all
19 the participants in the "D.C. Op Jan. 6" chat at the time.

20 Q Can we go to the next slide.

21 Was this -- what is this?

22 A These were the two photographs attached to that
23 previous message. The "1 if by land, 2 if by sea" message.

24 Q Do you recognize any monuments in question in
25 Washington, D.C. on this picture?

1 A Yes, the Lincoln Memorial is designated in the
2 bottom center.

3 Q Can we go to the next slide.

4 What are we looking at here?

5 A This is the second photograph that was attached to
6 that message. There is a notation for water transportation
7 landing.

8 Q Is that on the bottom left?

9 A Yes.

10 Q Thank you.

11 Now, can we go forward to the next slide,
12 Ms. Rohde.

13 Now we're back in Mr. Stewart Rhodes' Signal
14 messages because we see the 1.S. at the bottom of the
15 screen; is that correct?

16 A Yes. And specifically in the "D.C. Op Jan. 6"
17 chat, this was the next message in that chat group after the
18 photographs were posted by Mr. Meggs.

19 Q What's stated?

20 A "My sources D.C. working on procuring boat
21 transport as we speak."

22 Q Are you aware of who Western State LEA is?

23 A Yes, that is Paul Stamey.

24 Q And where it says Western State LEA, is that the
25 name that was saved in Mr. Rhodes' phone?

1 A Yes, that was -- yes.

2 Q Well, is that -- was the slide cut off?

3 A Say that again?

4 Q Was that the full name in Mr. Rhodes' phone?

5 A I can't remember if how we captured it if it was
6 cut off because it is long. But Western State Lead is what
7 I know this to be.

8 Q What is the time and date on this message?

9 A January 22nd, 2021, at 5:45 p.m.

10 Q And then can we go to the next slide.

11 So now what type of message are we looking at?

12 A So we are back in Facebook. Mr. Caldwell's
13 Facebook, 1/2/2021, at 6:13 p.m.

14 So maybe if we go back to the previous slide, it's
15 very close in time to the slide before that, or the message
16 that was sent by --

17 So 5:45 p.m. this message is sent by Paul Stamey
18 to the "D.C. Op" chat.

19 And then 6:13 p.m., this is a message sent from
20 Mr. Caldwell to -- or unsent by Mr. Caldwell to Matt Combs.

21 Q And is Matt Combs on the board of 1530?

22 A No.

23 Q Are you aware of what an unsent message is?

24 A Yes.

25 Q What is an unsent message?

1 A An unsent message is a message that is unsent by
2 the author of that message. And what we are seeing here is
3 the date and time that message was unsent.

4 The original message was sent at -- on
5 January 2nd, 2021, at 6:13 p.m.

6 Q And so would the user of Mr. Caldwell's Facebook
7 account have unsent this message?

8 A Correct.

9 Q Is there any record of what this message said?

10 A No.

11 Q Can you note the date and time that this message
12 was unsent?

13 A January 14th, 2021, at 9:16 p.m.

14 Q And then can we go forward here.

15 What is this message?

16 A This is a response to the message originally sent
17 by Mr. Caldwell.

18 Q So it's a response to a message that we no longer
19 have access to?

20 A Correct.

21 Q What does this response say?

22 A "Damn, I wish I did. LOL. I'd be your captain
23 for sure. And off the top of my head, I can't think of
24 anyone with a boat. Smoot has a bass boat. It wouldn't go
25 on the Potomac, though."

1 Q Can we go to the next slide?

2 MR. WOODWARD: Objection.

3 THE COURT: It's overruled.

4 BY MR. MANZO:

5 Q Now, what source are we in for the following
6 message?

7 A We're back in Signal. This is later that same
8 evening.

9 Q And when you say Signal, whose phone are we
10 talking about?

11 A We got this from Mr. Caldwell's phone and it is a
12 Signal chat with Paul Stamey.

13 Q What's the time and date?

14 A January 2nd, 2021, at 9:52 p.m.

15 Q Can you read the message please?

16 A "Thanks for this, brother. Any more event stuff
17 you see, please send my way, I will do the same. Am working
18 the Navy angle as we discussed."

19 Q Can we go to the next message, please.

20 What's going on here?

21 A So this is still on the 2nd of January 2021 at
22 10:53 p.m. This is now a message from Tom Caldwell to Tree
23 Shawn Pugh. We've seen one message to him from earlier.

24 Q And was Tree Shawn Pugh messaged in reference to
25 any other group that was at the Capitol on January 6th.

1 A Yes.

2 Q What group was that?

3 A The Three Percenters.

4 Q Ma'am, can you read this message?

5 A "Shawn. Can't believe I just spotted of this.

6 How many people either in the militia or not (who are still
7 supportive of our efforts to save the Republic) have a boat
8 on a trailer that could hand a Potomac crossing? If we had
9 someone standing by at a dock ramp, (one near The Pentagon
10 for sure) we could have our quick response team with the
11 heavy weapons standing by, quickly load them and ferry them
12 across the river to our waiting arms. I'm not talking about
13 a bass boat. Anyone who will be interested in supporting
14 the team this way? I will buy the fuel. More or less be
15 hanging around sipping coffee and maybe scooting on the
16 river a bit and pretending to fish. Then if it all went to
17 shit, our guy loads our weps and Blue Ridge Militia weps and
18 ferries them across. Dude. If we had 2 boats, we could
19 ferry across and never drive into D.C. at all. Then get
20 picked up. Is there a way to please pass the word among
21 folks you know and see if someone would jump in to the
22 middle of this to help. I'm spreading the word, too.
23 Genius if someone is willing and hasn't put their boat away
24 for the winter."

25 Q Can we go to the next message now.

1 Who is this a message between?

2 A This is another message that same evening, 11:08
3 p.m., from Tom Caldwell called to an individual by the name
4 of Matt Truong.

5 Q Is Matt Truong pictured on 1530?

6 A He is not.

7 Q Can you read the message, please.

8 A "Matt, I am meeting 6:00 p.m. with officers of
9 Blue Ridge Militia. Your intro will be easier for me to
10 arrange thereafter. Burning question: Do you have any
11 members of your community who have, or have contacts who
12 have a boat we could have in the Potomac on the 6th? Here's
13 why: We are not going in with guns. However, we have
14 designated a Quick Reaction Force which will have all such
15 things. If things went really bad and we needed to fight
16 back to save lives, the QRF vehicle will have a hard time
17 fighting through traffic to get to our guys. But if we had
18 a boat standing by, the QRF could load the boat, ferry stuff
19 to our waitin' arms. If we had to get folks out, sick,
20 hurt, just too cold, we in and not get separated including
21 in terms of the nightmarish parking. Could I respectfully
22 ask you to put out the call? Its a way a patriot could help
23 and we will compensate them, no worries. Thanks in advance
24 for your help."

25 Q Does the message continue?

1 A I believe that's the end of that message.

2 Q And can we go to the next page?

3 A I think that we may have out of order here, but
4 I will continue to read.

5 "We could get them out via boat." I think he's
6 referring back to the people who were sick, cold, or needed
7 help. "Could get them out via boat and our QRF vehicle
8 would get them home or coordinated. If someone had a
9 commercial boat even, maybe we could hire it for the day (I
10 would get the money) and if traffic is just too brutal, we
11 could ferry people into the protest. I have 5 coming in
12 from Ohio, 50 from Florida, going to be hard for us to
13 drive," and I think it's back to the previous message.

14 Q Thank you.

15 And now can we go forward to this message here on
16 1/3/2021 at 12:55 a.m.?

17 A Yes. so this is I think approximately one or two
18 hours after the previous messages, 1/3/2021, at 12:55 a.m.
19 from Tom Caldwell to Paul Stamey. "I'm calling a night.
20 Got feelers out in the boat idea, will finish new map
21 tomorrow. Early wake up full day tomorrow. Sleep well,
22 bro. CAG is on the case."

23 Q Can we go to the next slide.

24 Where are we now in terms of the source of this
25 message?

1 A So now we are in the "D.C. Op Jan. 6" chat from
2 Kelly Meggs.

3 Q And what phone did this derive from?

4 A So this is from Stewart Rhodes' phone.

5 Q What does the message say?

6 A So I believe at this point, Stewart Rhodes,
7 Kelly Meggs, Jess Watkins, Paul Stamey, Doug Smith are all
8 participants in this chat.

9 Q Okay.

10 And what did Mr. Meggs say?

11 A "Ammo situation: Are we bringing or are we set at
12 QRF? I mean I'm always going to have a couple hundred but
13 if SHTF we got ample availability."

14 Q Can we go to the next.

15 What's going on now at 1/3/2021 at 6:01 p.m.?

16 A So this is Don Siekerman posting that invite to
17 the GoToMeeting that we saw previously on the summary chart
18 that took place on 1/3.

19 Q Can we go to the next message.

20 We're now looking at the bottom left-hand corner
21 here where it says 22.E. What does that mean?

22 A So these are emails that we obtained from
23 Tom Caldwell's phone.

24 Q Can you read what this message says?

25 A So on 1/3/2021 at 11:54 p.m., Mr. Caldwell wrote

1 to Paul Stamey, "Subject: New maps relative to hotel and
2 ingress for QRF.

3 "These maps walk you from the hotel into D.C. and
4 east towards the target area on multiple roads running west
5 to east including M Street and P Street, two of my
6 favorites. One shows a quick left-hand jog up Wisconsin
7 Avenue and then you can blast east on P or O. Avoids a lot
8 of crud. CAG."

9 Q Were there pictures attached to this message?

10 A Yes.

11 Q Can we go to now 6923.1 which we just excerpted
12 due to technology issue here.

13 And is this -- and the following message. Are
14 these the pictures that were in the -- attached to the
15 previous email?

16 A Yes.

17 Q And can you just briefly describe what these
18 pictures are?

19 A Excuse me. So in the first picture, it is showing
20 the location of the Comfort Inn on Glebe Road.

21 Q Can you go back to the previous message.

22 Can you circle on your map the Comfort Inn
23 location.

24 A Maybe I need to -- sorry.

25 I can't figure it out. I'm sorry.

1 There's a pink marker that says Comfort Inn
2 Ballston.

3 Not my fault.

4 MR. MANZO: Ms. Rohde, can you zoom in on in the
5 pink marker that says Comfort Inn Ballston that the agent
6 has just identified?

7 THE WITNESS: Up higher.

8 There it is.

9 BY MR. MANZO:

10 Q And is that the Comfort Inn Ballston that you're
11 referring to in the middle of the map?

12 A Yes.

13 MR. MANZO: Ms. Rohde, can we go to the next
14 slide.

15 BY MR. MANZO:

16 Q What are we looking at here?

17 A So this is Route 66, amongst others, showing those
18 roadways from the Comfort Inn Ballston into D.C.

19 Q And is there one more map associated with this
20 email?

21 A Yes.

22 Q Can you go to the next one.

23 And can you tell the jury what we're looking at
24 here.

25 A Yeah. This now shows the bridge over the Potomac

1 and the roadways there into D.C.

2 MR. MANZO: Okay. Ms. Rohde, can we go back to
3 6923.

4 And can we go forward to the next message.

5 BY MR. MANZO:

6 Q What are we looking at here on 1/3/21?

7 A So this is a second email that Mr. Caldwell sent
8 to Mr. Stamey. "Subject: More new maps.

9 "And fear not: If you are getting overwhelmed
10 (I know that feeling) know that I will have hard copies of
11 these maps for you and all drivers. CAG."

12 Q And then were there maps attached to this email?

13 A There were.

14 Q Can we go back to 6923.1.

15 And go forward.

16 Go forward again.

17 And we're looking at the fourth page of 6921.

18 A It's just a map. It's a map -- yeah.

19 Q 6923.1?

20 A Sorry. An overhead map of the D.C. area.

21 Q Was this attached to the previous email?

22 A Yes.

23 Q Can we go to the next page as well.

24 And what are we looking at here?

25 A This is the last attachment to that email that's

1 an area in D.C.

2 Q And is there actually one more attachment as well?

3 A Yes. I'm sorry.

4 Q And what are we looking at here?

5 A Just additional maps of D.C. in and around the
6 area of the Capitol.

7 Q Are you sure it's the Capitol?

8 Can you zoom in on the circle on the middle of the
9 screen.

10 A Oh, I'm sorry. Yes. That's the area around
11 Dupont Circle.

12 Q Can we go back to 6923.

13 Is there a response to this message?

14 A Yes.

15 Q Can we go to that.

16 What's going on here?

17 A Mr. Stamey responds to Mr. Caldwell's last email:
18 "Roger that."

19 Q Okay. Can we go to the next message.

20 Where are we now in terms of a source of this
21 message?

22 A So we're moving on to January 4th, 2021, 2:28 p.m.
23 This is another Signal chat.

24 Q And does the 85 mean it comes from Isaacs' phone?

25 A From Williams Isaacs' phone, correct.

1 Q And what is the chat that we're in now?

2 A It's called "OK FL D.C. Op Jan. 6th."

3 Q And who is this from?

4 A Jessica Watkins.

5 Q Do you see Jessica Watkins on the board?

6 A Yes. Again, she is the top on the most right-hand
7 column under Stack 1, next to the word "Ohio."

8 Q Can you read the message.

9 A "We will be in VA at 8:00 p.m. Where can we drop
10 off weapon to the QRF team? I'd like have the weapons
11 secured prior to the op tomorrow. Our hotel is in
12 Arlington, VA, by the metro station, but we don't check in
13 until tomorrow. Staying with family this evening in
14 Winchester."

15 Q Can we go to the next message now.

16 What's the source of this message?

17 A This is from Tom Caldwell to Doug Smith. This is
18 from Mr. Caldwell's phone; specifically, a Signal chat that
19 he had with Doug Smith.

20 Q And what does the message say?

21 A "Paul, Sharon, and I are planning a prestrike into
22 the hornet's next tomorrow afternoon."

23 Q Time and date?

24 A 1/4/2021, 10:02 p.m.

25 Q Can we go to the next slide.

1 What's going on here?

2 A Mr. Caldwell sends another message to Smith,
3 10:05 p.m. on the 4th.

4 "Ohio crew of 5 (3 who were here before, Donovan,
5 Jessica, and Montana scheduled to arrive Winchester, VA,
6 this evening. They will stage with us at the hotel. More
7 to follow tomorrow. Regards, CAG."

8 Q Who is Doug Smith again?

9 A Doug Smith is the lead of -- the state lead for
10 North Carolina.

11 Q Can we go to the next slide, please.

12 What's going on here?

13 A So now we've moved on to January 5th, 12:50 a.m.,
14 from Doug Smith to Tom Caldwell.

15 Q From Caldwell's Signal messages?

16 A Correct.

17 "How far is it from the Capitol Building to the
18 motel on the Virginia side?"

19 Q Is there a response?

20 A Yes.

21 "4 miles or so."

22 Q Is there a follow-up?

23 A Yes.

24 "Actually, Google Map says 6.8. Too far to hike."

25 Q What's the time and date of this message?

1 A January 5th, 2021, at 1:01 a.m.

2 Q Who sent it?

3 A Thomas Caldwell to Doug Smith.

4 Q Okay. Can we go to the next message, please.

5 What are we looking at here?

6 A So this is now later that morning on the 5th from
7 someone named Liberty to the "D.C. Op Jan. 6, '21" chat.

8 Q And is this from Stewart Rhodes' phone?

9 A We obtained this from Stewart Rhodes' phone.

10 Q Can you read the message.

11 A "Stewart Rhodes.

12 "Urgent alert: Do not enter D.C. with anything
13 that would be deemed illegal in D.C. or even questionable.
14 The D.C. police have arrested multiple people for items they
15 cannot bring into D.C., including Enrique Tarrio, president
16 of Proud Boys. But he's not the only one.

17 "Three others have also been arrested. They are
18 setting traps. Do not even cross over into D.C. at all, for
19 any reason, with anything on you or in your vehicle that
20 could get you into trouble."

21 Q And then we can go forward. We'll double back to
22 this slide at the end.

23 Go forward again.

24 Go forward again.

25 What's being said here in 1/5/21 at 8:02 a.m.?

1 A So we had previously seen Ms. Watkins ask for the
2 QRF hotel address on 1/4/2021. This is that same chat
3 group. 1/5/2021 at 8:02 a.m. from Kenneth Harrelson.

4 "We get that QRF hotel address yet?"

5 Q Is there a response?

6 A Yes.

7 Q Who responds?

8 A Kelly Meggs responds, "Dm."

9 Q Can we go forward here. What are we looking at
10 here at 1/5/21 at about 4:29 p.m.?

11 A So this is, again, back to the "D.C. Op Jan. 6"
12 chat.

13 Stewart Rhodes says, "Added Ed V. from Arizona
14 Oath Keepers who has a team at Supreme Court."

15 Q Is there someone that you've come to understand
16 Ed V. is?

17 A Yes.

18 Q Who's that?

19 A It is Ed Vallejo.

20 Q Can you point to him on the map or on the board.

21 A He is the second one down under the
22 Quick Reaction Force.

23 Q And you're looking at 1530, correct?

24 A Yes.

25 Q Can we look at the next message.

1 What is going on here?

2 A So the next series of messages, as we introduced
3 the Todd Kandarlis and Ed Vallejo from Arizona, are a series
4 of messages exchanged between Todd Kandarlis and
5 Stewart Rhodes, beginning in late December of 2020.

6 Q And are these direct messages between
7 Todd Kandarlis and Stewart Rhodes?

8 A They are Signal messages but only between
9 Todd Kandarlis and Stewart Rhodes.

10 Q What's the time and date of this message?

11 A 12/31/2020, 10:59 a.m.

12 Q Who's it from?

13 A Prometheus.

14 Q Were you able to identity the true identity of
15 Prometheus?

16 A Yes. We will see later in one of these messages,
17 where he says, "This is Todd Kandarlis."

18 Q Can you read this message.

19 A "Hey, Stewart, are you going to D.C. for the 6th?
20 Myself and some other patriots are going to be there. Would
21 like to touch base if you will be there."

22 Q Does Mr. Rhodes respond?

23 A Yes.

24 Q What does he say?

25 A "Yes, I will be there. Refresh my memory, please.

1 Who is this?"

2 Q Is there a response?

3 A Yes.

4 "This is Todd Kandaris."

5 Q Can you go forward.

6 A Todd Kandaris is on this board also. He is the
7 third one down on the left under the Quick Reaction Force.

8 Q Under the Quick Reaction Force column?

9 A Correct.

10 Q What does Mr. Kandaris say at 12/31/20 at
11 1:10 p.m.?

12 A "I'm wanting to coordinate with others as much as
13 possible, so I'm putting us out there as supplemental
14 personnel."

15 Q Is there a response?

16 A There's another message from Mr. Kandaris.

17 Q What does Mr. Kandaris say?

18 A "Everyone coming has their own technical equipment
19 and knows how to use it," with a smiley face emoji -- or a
20 winking smiley face emoji.

21 Q What's the time and date of this message?

22 A Still on 12/31/2020 at 1:11 p.m.

23 Q Does Stewart Rhodes respond?

24 A Yes.

25 Q What does he say?

1 A "Awesome. How many are you bringing?"

2 Q Is there a response?

3 A Yes.

4 Q What does Mr. Kandaris say?

5 A "Not large numbers. We are 4 at the point but may
6 gain more. We are coming from Arizona. Starting in
7 Phoenix/Mesa. I would like to rally with you when you have
8 decided where you want to be. We are leaving Arizona
9 tomorrow morning, 1/1/21. Please keep us in the loop. Our
10 code name is Prometheus."

11 Q Can you go to the next slide, please.

12 Does Mr. Rhodes state something here?

13 A Yes. He asks Mr. Kandaris: "How long have you
14 been in Oath Keepers?"

15 Q And does Mr. Kandaris respond?

16 A Yes.

17 "Four. This is Todd from Stepwyze."

18 I believe that's actually in response to how many
19 he's bringing, though, not the number of years he's in been
20 in Oath Keepers.

21 Q And does Mr. Rhodes respond?

22 A Yes.

23 Q What does he say?

24 A Again, I think these might be out of order.

25 But "Oh, okay. Now I remember. Who are you

1 bringing?"

2 Q And is there another response?

3 A Yes.

4 Q What's that?

5 A "Dr. Phranq Tamburri, Ed Vallejo, Kelly Carter,
6 and myself thus far."

7 Q Is there a response to that?

8 A Yes.

9 Q What does it say?

10 A As attendees or speakers or as security
11 volunteers.

12 Q Is there a response?

13 A Yes.

14 Q What is it?

15 A "Just as volunteers, as far as I know no one is
16 anticipating speaking. We are rifles, manpower, warm bodies
17 there to support the process and the President."

18 Q Does Mr. Kandaris continue on the next slide?

19 A Yes.

20 Q What does he say?

21 A This is now on 1/1/2021 at 11:39 a.m.

22 "Hi, Stewart, Ed Vallejo wants to be a speaker.

23 We are requesting a slot for him. We need to know where

24 staging is going to be for technical equipment and

25 'supplies.' We are leaving Arizona this morning. Please

1 advise."

2 Q Can we go to the next slide, please.

3 What is going on here on 1/4/21 at 6:30 p.m.?

4 A So this is now, these are text messages that we
5 obtained from Ed Vallejo's phone.

6 Q And what is Mr Vallejo say in this message?

7 A "Sir, Ed Vallejo of Arizona in Tennessee with
8 cadre requesting coordinates to allied encampment outside
9 D.C. boundaries to rendezvous. Please respond ASAP. For
10 the Republic."

11 Q Can you point to the board based on Mr. Kandar's
12 previous message, who was traveling from Arizona east with
13 Mr. Kandar's?

14 A Ed Vallejo, who is second down under the
15 Quick Reaction Force; Todd Kandar's. And we during the
16 investigation revealed that Kelly Carter traveled with them
17 but Dr. Phrang Tamburri by did not.

18 Q And Kelly Carter is one of the names Mr. Kandar's
19 previously just mentioned?

20 A Correct.

21 Q Can we go to the next slide.

22 What is going on here in this slide?

23 A This is a message from Ed Vallejo to Kelly Carter,
24 text message, mid December of 2020, where Mr. Vallejo is
25 sharing with Kelly Carter the Hagman report, which includes

1 a number of those clips that we watched yesterday.

2 Q And is that Hagman report, did you click on this
3 link?

4 A I did.

5 Q And was the video a certain amount?

6 A It's close to two hours long.

7 Q And can you go to the next message, please.

8 What does Mr Vallejo say to Kelly Carter?

9 A He says, "Listen to the second hour. It's on."

10 Q Now, I'm not going to belabor the point but can we
11 go to 6863.1, please.

12 And we're looking at, if you could just play the
13 first five seconds.

14 (Video played)

15 MR. MANZO: This has already been admitted into
16 evidence. Can we publish it to the jury?

17 MR. FISCHER: No objection.

18 (Video played)

19 BY MR. MANZO:

20 Q Let me push pause at 27 seconds there. So
21 do you recognize what 6863.1 is?

22 A Yes.

23 Q What is that compared to the link that Mr Vallejo
24 sent around?

25 A It is a portion of the entirety of the two hours

1 that Mr Vallejo sent to Mr. Carter.

2 Q And --

3 A I want to be clear that I didn't see anything that
4 would indicate that Mr. Meggs shared this with Ed Vallejo or
5 vice versa. It just was shared by each of them
6 individually.

7 Q So Mr Vallejo had shared this with Mr. Kelly
8 Carter?

9 A Kelly Carter.

10 Q And 6863.1 is kind of a highlight of the link?

11 A Correct.

12 And it is approximately around the -- starts
13 approximately one hour in so it encompasses the second hour
14 of the whole report, I guess.

15 Q Can we go to 6923 again.

16 Can we go to the next slide.

17 What's going on here?

18 A This is now the evening of January 4th, 2021, and
19 we'll see in a bit kind of the -- or in Monday, the travels
20 that Ed Vallejo and Todd Kandarlis took across the country.

21 But he is -- Mr. Kandarlis is reaching out to
22 Mr. Rhodes on the 4th.

23 "Hey, Stewart, must have wrong phone for Kelly.
24 Please send to this number. Thanks-Todd."

25 Q What's the time and date again?

1 A January 4th, 2021, at 11:44 p.m.

2 Q Can we go to the next slide.

3 What does Mr. Rhodes respond?

4 A He responds with a phone number. "(352) 598-0600.
5 Call or text him. He's driving so still awake."

6 Q Can we go to the next slide?

7 A That number belongs to Kelly Meggs.

8 Q What's going on here in the next slide on 1/4/21
9 at 11:48 p.m.?

10 A This now from Ed Vallejo directly to Kelly Meggs.
11 "Sir, this is Ed Vallejo. We must have copied your number
12 incorrectly as we never received response to our text
13 requesting campground address. We made it as far as
14 Wrightsville, VA, and had to get a room. Please text
15 location so we will know where to begin in the morning.
16 Thank you kindly."

17 Q And the final slide here of this exhibit, what's
18 going on here?

19 A This is a message from Stewart Rhodes to "D.C. Op
20 Jan. 6, '21" that says, "We will have several well equipped
21 QRFs outside D.C. And there are many, many others from
22 other groups who will be watching and waiting on the outside
23 in case of worst case scenarios."

24 MR. MANZO: Your Honor, this is the final slide.
25 I'd be moving on to a new topic.

1 THE WITNESS: Can I add -- sorry. I know that
2 there was.

3 BY MR. MANZO:

4 Q What would you like to see to say?

5 A I know that there was a response from Mr. Meggs to
6 Ed Vallejo with the address of the Comfort Inn in Ballston,
7 Virginia.

8 Q Thank you.

9 THE COURT: Okay. Let's break for the afternoon.

10 Ladies and gentlemen, all right, we are
11 approaching the 12:30. We'll break for the afternoon and
12 for the week. Thank you very much for your time and
13 attention and all the hard work this week. Have a nice
14 weekend. We will resume trial on Monday at 9:30. Just the
15 same general instructions, not to discuss the case, no
16 review of media, no independent research, we look forward to
17 seeing you next Monday. Have a nice weekend, everyone.

18 COURTROOM DEPUTY: All rise.

19 (Jury exited the courtroom.)

20 THE COURT: All right. You can step down.

21 Agent Hilgeman, just instruct you not to discuss
22 your testimony with anyone over the weekend and we'll see
23 you back Monday morning. Thank you.

24 All right. Let's take about ten minutes. I think
25 we just have the one issue to discuss, but let's give our

1 court reporter a quick break, and why don't we just plan to
2 be back here about 20 of and we can resolve what we need to
3 and then adjourn for the week. All right? Thank you,
4 everyone.

5 COURTROOM DEPUTY: All rise.

6 (Recess from 12:31 p.m. to 12:44 p.m.)

7 COURTROOM DEPUTY: All rise. This Honorable Court
8 is again in session. Be seated and come to order.

9 THE COURT: Please be seated, everyone.

10 Do we have everyone back? We're missing few
11 counsel, it looks like.

12 MR. WOODWARD: I think that they know.

13 We have somebody for every defendant.

14 THE COURT: It looks like it. Okay.

15 So let's talk about the call, the recorded call,
16 between Mr. Meggs and his son.

17 I've listened to it. What's your ask?
18 Mr. Woodward.

19 MR. WOODWARD: Well, I mean, if we're going to
20 play the portion, I think, now that you've heard it, the
21 overall discussion -- the overall discussion, we submit, is
22 about the current circumstances, and so it's difficult to
23 snip portions of it now.

24 THE COURT: Well, a couple observation. One is,
25 look, it's clearly a conversation of a personal nature

1 largely between Mr. Meggs and his son. There are sort of,
2 it's rife where references to the fact that he is detained
3 and the conditions of detention. So, you know, it can't
4 reasonably be played in any sense of completeness without
5 making that clear.

6 You know, insofar as the narrow reason the
7 government is seeking to admit it, which is the simple
8 statement about having lost guns in the fire, it's not clear
9 to me how the rest of the call in any way completes that.
10 I mean, the rest of the call is mainly about court
11 proceedings, conditions at the facility, et cetera. I
12 didn't hear anything that followed it or that was before it
13 that would make that snippet misleading in any way.

14 MR. WOODWARD: Okay.

15 THE COURT: I mean, if there's -- I'm not asking
16 you to accept that as the final word, that's just my
17 overrule all impression.

18 MR. WOODWARD: I don't -- you know, I respect that
19 not 100 percent of the call is related. I just --
20 it would be difficult to -- there's pieces before and after
21 sections that we would agree should not be played for the
22 jury, and so it would be difficult to create a complete call
23 because our perspective is that the discussion about the
24 guns being destroyed in a fire is in the greater context of
25 why Mr. Meggs is detained and what's going on in -- well,

1 immediately prior to that, there's a reference to, I guess,
2 general politics.

3 THE COURT: No, it's a specific reference to Biden
4 taking the guns away, at least that's the allegation.

5 MR. WOODWARD: And before that, I believe, I can't
6 recall whether it's Mr. Senior Meggs or Junior Meggs, but
7 there's a reference, they're not doing anything for us.

8 THE COURT: I'd have to go back and listen.

9 I mean --

10 MR. WOODWARD: And that comes into context.

11 THE COURT: So I mean, I'm open to the idea that
12 there may be a little bit before but it was a relatively
13 contained discussion points. I mean, there's a lot of
14 topics in there, as I said, conditions of detention and
15 ability to communicate with his son, et cetera, et cetera,
16 that just really don't go to the main issue for which the
17 recording is being admitted.

18 MR. WOODWARD: I understand, Your Honor. And then
19 it becomes really a question of what the impression of the
20 jury is going to be by being played a 15-second recording
21 and where that came from and why. And, you know, we have
22 concerns about how the government is going to present this
23 evidence.

24 THE COURT: Okay.

25 I mean, I guess the question is what's the

1 government's intention in terms of how they are going to
2 present? Is it going to be anything other than, please roll
3 the tape and can you authenticate it but without identifying
4 a source?

5 MR. NESTLER: We can. We offered defense the
6 option of a stipulation to try to moot some of these issues.
7 It's important, we believe, for the jury to be aware, that
8 Mr. Meggs was aware that he was being recorded. And so that
9 comes in at the beginning as an admonishment at the
10 beginning of each jail call.

11 THE COURT: Why does it matter that he knew he's
12 being recorded?

13 MR. NESTLER: Because he's talking in code. So
14 the government is not accessing -- he doesn't say, I hid all
15 of my guns.

16 So just to be clear, we don't believe Mr. Meggs'
17 guns were lost in a fire.

18 THE COURT: I understand.

19 MR. NESTLER: Or were they lost in the boating
20 accident. He got rid of them so the government wouldn't use
21 them to prosecute Mr. Meggs.

22 So this is part and parcel with some other
23 messages he sent about losing his gear in a boating accident
24 and another message to Mr. Harrelson about hiding all of the
25 tools. So it's relevant that Mr. Meggs is aware that he's

1 being recorded.

2 So our proposed stipulation was Mr. Meggs made a
3 phone call on this date. He was told the phone call was
4 being recorded. The following lines of conversation
5 occurred. That's sort of the cleanest way to do it. Of
6 course, the defense not have to agree with that. But we do
7 think it's important to get that fact in and it's hard to
8 get that fact in on audio, which is why it's easier to do it
9 on written paper, we can sanitize it. On audio, it comes in
10 with somebody saying this is a secure call from a jail
11 facility. This call is being monitored.

12 THE COURT: All right.

13 MR. WOODWARD: May I approach, Your Honor?

14 THE COURT: Approach me?

15 MR. WOODWARD: Ex parte.

16 THE COURT: Go ahead.

17 (Ex parte, sealed bench conference)

18 [REDACTED]

19 [REDACTED]

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[REDACTED]

[REDACTED] [REDACTED]

(Open court)

THE COURT: All right. So, Mr. Woodward.

MR. WOODWARD: We'll agree to a stipulation,
Your Honor. We'll work on that with the government over the
weekend.

THE COURT: Okay.

MR. NESTLER: Okay. Thank you.

THE COURT: Terrific. Okay. Is there anything
else we need to raise or discuss before we adjourn?

MR. NESTLER: Not from the government, Your Honor.

MR. GEYER: No, sir, Your Honor.

MR. LINDER: No, sir.

THE COURT: Thank you, everybody.

Have a nice weekend. Just, again, if we've got
evidentiary issues, please let JC know. I will get here as
early as I need to to try and resolve them before we start.

Okay. Thanks, everybody. Do not wait for me.

MR. WOODWARD: Is there a time certain on that?

THE COURT: Just let him know by Sunday evening.
I get here early, so I can be here whenever. As long as
you're here, I can be here.

COURTROOM DEPUTY: The Court stands in recess.

(Proceedings concluded at 12:54 p.m.)

C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: October 14, 2022



William P. Zaremba, RMR, CRR

<p>BY MR. LINDER: [1] 3348/7</p> <p>BY MR. MANZO: [34] 3390/8 3390/18 3393/22 3395/9 3396/18 3398/16 3402/3 3402/10 3403/5 3407/14 3407/21 3408/21 3409/4 3412/20 3415/14 3417/8 3417/18 3418/18 3419/4 3419/18 3420/22 3424/1 3425/1 3425/24 3426/7 3428/22 3430/12 3434/5 3446/4 3452/9 3452/15 3453/5 3464/19 3467/3</p> <p>COURTROOM DEPUTY: [9] 3342/18 3345/13 3371/9 3389/14 3389/25 3467/18 3468/5 3468/7 3475/24</p> <p>JUROR 10: [1] 3347/2 JUROR 11: [1] 3347/4 JUROR 12: [1] 3347/6 JUROR 13: [1] 3347/8 JUROR 14: [1] 3347/10 JUROR 15: [1] 3347/12 JUROR 16: [1] 3347/14</p> <p>JUROR 1: [1] 3346/9 JUROR 2: [1] 3346/11 JUROR 3: [1] 3346/13 JUROR 4: [1] 3346/15 JUROR 5: [1] 3346/17 JUROR 6: [1] 3346/19 JUROR 7: [1] 3346/21 JUROR 8: [1] 3346/23 JUROR 9: [1] 3346/25</p> <p>MR. CRISP: [15] 3361/1 3381/7 3381/22 3382/1 3382/10 3382/19 3382/22 3388/6 3388/10 3388/19 3389/5 3389/11 3426/20 3427/8 3427/21</p> <p>MR. 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[1] 3462/25</p> <p>0 0600 [1] 3466/4 08077 [1] 3339/13 0826 [1] 3339/18</p> <p>1 1.S [3] 3398/18 3430/14 3443/14 1/1 [1] 3425/5 1/1/2021 [3] 3425/7 3425/19 3462/21 1/1/21 [2] 3428/24 3461/9 1/2/2021 [1] 3444/13 1/2/21 [2] 3438/15 3440/15 1/3 [1] 3450/18 1/3/2021 [4] 3449/16 3449/18 3450/15 3450/25 1/3/21 [1] 3453/6 1/4/2021 [2] 3455/24 3458/2 1/4/21 [2] 3463/3 3466/8 1/5/2021 [1] 3458/3 1/5/21 [2] 3457/25 3458/10 10 [3] 3342/22 3347/1 3409/13 100 [3] 3380/2 3407/8 3469/19 106 [1] 3428/11 10:02 p.m [1] 3455/24 10:05 p.m [1] 3456/3 10:53 [1] 3446/22 10:59 [1] 3459/11 11 [2] 3337/7 3347/3 11/14 [2] 3402/4 3402/6 11/14/2020 [1] 3403/9 11/16/2020 [1] 3403/7 11/9 [1] 3364/22 11/9/2020 [1] 3401/12 112 [1] 3386/6</p>	<p>11:08 [1] 3448/2 11:19 [1] 3403/21 11:39 [1] 3462/21 11:40 [1] 3412/24 11:44 [1] 3466/1 11:45 [1] 3404/18 11:48 [1] 3466/9 11:54 [1] 3450/25 12 [2] 3347/5 3441/24 12/21/2020 [1] 3408/5 12/22/2020 [2] 3408/19 3409/6 12/29/2020 [2] 3410/1 3412/21 12/30/2020 [2] 3413/10 3414/19 12/31/20 [1] 3460/10 12/31/2020 [3] 3423/8 3459/11 3460/22 12/4/2020 [1] 3404/17 120 [4] 3386/3 3386/8 3386/22 3386/22 124 [1] 3436/7 12:30 [2] 3414/17 3467/11 12:31 [1] 3468/6 12:44 [1] 3468/6 12:50 a.m [1] 3456/13 12:54 p.m [1] 3475/25 12:55 [2] 3449/16 3449/18 12th [1] 3405/21 13 [2] 3347/7 3390/22 14 [5] 3337/5 3347/9 3402/4 3402/6 3476/7 1460 [1] 3338/12 1486 [1] 3415/1 14th [8] 3362/12 3363/6 3363/13 3383/11 3401/15 3408/7 3414/1 3445/13 15 [7] 3337/4 3342/19 3345/6 3347/11 3370/9 3386/24 3441/24 15-second [1] 3470/20 1530 [12] 3393/20 3393/24 3394/2 3397/15 3404/15 3413/20 3423/21 3430/22 3439/16 3444/21 3448/5 3458/23 16 [2] 3347/13 3388/23 16th [2] 3385/5 3402/14 17110 [1] 3338/15 1808 [1] 3339/3 1925 [1] 3419/22 1963 [1] 3419/21 19th [1] 3416/5 1:01 a.m [1] 3457/1 1:10 p.m [1] 3460/11 1:11 p.m [1] 3460/22 1:35 [1] 3399/10 1:48 [1] 3424/5 1st [13] 3373/17 3374/1 3374/2 3393/12</p>	<p>3422/19 3424/5 3429/20 3430/5 3432/12 3433/6 3433/7 3433/13 3441/15</p> <p>2 20 [3] 3414/17 3460/10 3468/2 20/20 [1] 3414/17 2000 [3] 3396/21 3396/25 3406/24 20001 [1] 3340/5 2001 [2] 3372/19 3423/1 2001.C.2 [1] 3371/15 2001.C.2.B [1] 3371/20 2001.C.2.D [1] 3375/25 2001.T.54.1 [1] 3378/21 2001.T.54.2 [1] 3378/10 20010 [1] 3339/4 20036 [1] 3339/9 2006 [2] 3339/12 3400/15 2007.T.3.8 [1] 3383/4 202 [4] 3337/16 3339/4 3339/9 3340/5 2020 [37] 3362/12 3363/6 3363/14 3376/14 3379/19 3381/5 3385/5 3391/25 3397/13 3399/10 3401/12 3401/15 3402/4 3402/14 3403/7 3403/9 3403/20 3403/20 3404/17 3406/16 3407/3 3408/5 3408/7 3408/19 3408/23 3409/6 3409/8 3410/1 3412/21 3413/10 3414/19 3423/8 3423/20 3459/5 3459/11 3460/22 3463/24 2021 [43] 3373/17 3374/2 3393/12 3415/21 3416/5 3416/8 3416/18 3416/19 3417/4 3418/23 3419/6 3422/19 3422/21 3424/5 3425/7 3425/19 3429/20 3430/7 3436/5 3436/16 3439/4 3441/6 3441/15 3442/2 3442/15 3444/9 3444/13 3445/5 3445/13 3446/14 3446/21 3449/16 3449/18 3450/15 3450/25 3454/22 3455/24 3457/1 3458/2 3458/3 3462/21 3465/18 3466/1 2022 [2] 3337/5 3476/7 205 [3] 3416/10 3416/12 3416/17 20579 [1] 3337/16</p>
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