

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

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4	UNITED STATES OF AMERICA,	:
5	v.	:
6	REALITY LEIGH WINNER,	:
7	Defendant.	:
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CASE NUMBER CR-1:17-00034

TRANSCRIPT OF ARRAIGNMENT AND DETENTION HEARING

BEFORE THE HONORABLE BRIAN K. EPPS
United States Magistrate Judge

United States Courthouse
600 James Brown Boulevard
Augusta, Georgia
June 8, 2017

TRANSCRIBED BY: Victoria L. Root, CCR
United States Court Reporter
Post Office Box 10552
Savannah, Georgia 31412
(912) 650-4066

A P P E A R A N C E S

FOR THE GOVERNMENT:

JENNIFER G. SOLARI, Esquire
Assistant United States Attorney
Post Office Box 8970
Savannah, Georgia 31412
(912) 201-2561

JAMES D. DURHAM, Esquire
Acting United States Attorney
Post Office Box 8970
Savannah, Georgia 31412
(912) 652-4422

DAVID AARON, Esquire
Trial Attorney, United States Department of Justice
National Security Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

FOR THE DEFENDANT:

TITUS T. NICHOLS, Esquire
JOHN C. BELL, JR., Esquire
Bell & Brigham
457 Greene Street
Augusta, Georgia 30901
(706) 722-2014

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

2 (Call to order at 3:59 p.m.)

3 COURT CLERK: The Court calls Case Number 1:17-CR-34,
4 *United States of America v. Reality Leigh Winner*. Jennifer
5 Solari, James Durham, and David Aaron for the Government;
6 Titus Nichols and John Bell for the Defense. Here for
7 arraignment and detention hearing.

8 THE COURT: Good afternoon, everyone.

9 MR. NICHOLS: Good afternoon, Your Honor.

10 MS. SOLARI: Good afternoon, Your Honor. The
11 Government's ready.

12 THE COURT: And you're taking the lead for the
13 Government, Ms. Solari?

14 MS. SOLARI: That's right, Your Honor.

15 THE COURT: Okay. All right. Welcome, everyone.

16 We now have a -- an indictment returned by the grand
17 jury in this matter, Miss Winner. And I'm sure Mr. Nichols has
18 explained to you -- but just for the sake of making sure, we --
19 the -- you appeared on a complaint that was signed by the
20 investigating agent in this case. That was your initial
21 appearance earlier this week. Now that the grand jury has
22 returned that indictment, it supersedes and replaces, in its
23 entirety, the complaint that was filed, so we need to have an
24 initial appearance on that indictment.

25 I'm going to review some things with you that we've

1 already talked about, but I do that out of an abundance of
2 caution because the rights that you have are very important,
3 and I want there to be no doubt that the rights we've already
4 discussed in this case apply fully to you now that an
5 indictment has been returned.

6 So that's what we're going to start with is going
7 through the indictment, making sure you understand what your
8 rights are, discussing what discovery the Government has that
9 they're ready to turn over to your counsel, and what procedures
10 that might need to be in place for that exchange to occur. And
11 then after all those things are taken care of, I'll ask you how
12 you plead to the charges, and we'll move on to the detention
13 hearing that we've previously scheduled in this matter.

14 I've already explained to you your right to counsel.
15 I'm going to remind you of that again. You have the right to
16 be represented by an attorney at every stage of this case, both
17 in and out of court, and including any questioning by law
18 enforcement. You have the right to consult with your attorney
19 before questioning may occur at any time. You may hire your
20 own attorney if you're financially able to do so. If you're
21 unable to afford an attorney, the Court will appoint one at no
22 cost to you.

23 Do you understand your right to counsel?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And I understand here you've retained

1 Mr. Nichols and Mr. Bell with your own funds and you're not
2 seeking court-appointed counsel in this matter; is that
3 correct?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay. Moving on, I need to remind you
6 of your right to remain silent. You have the absolute
7 constitutional right to remain silent. That is, no one
8 associated with the Government or any law enforcement agency
9 can force or compel you to make any statement regarding any
10 subject whatsoever including, most importantly, the allegations
11 contained in the indictment that we're about to review here in
12 court.

13 But you also need to understand that that right to
14 remain silent is not restricted to the allegations in the
15 indictment. It includes any topic under the sun. Any
16 statement made by you or the answers you give to any questions
17 asked can be used as evidence not only in connection with this
18 case that we're here for today but also any other cases
19 currently pending against you or that may be brought against
20 you in the future.

21 The bottom line is you're not required to make any
22 statement. If you have made a statement, you need not say any
23 more. And if you start to make a statement, you may stop at
24 any time.

25 Do you understand your right to remain silent?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Mr. Nichols, have you received a copy of
3 the indictment and penalty certification and had a chance to
4 review those documents with your client?

5 MR. NICHOLS: Yes, I have.

6 THE COURT: And for the record, Ms. Solari, could
7 you please summarize the allegations in that indictment and the
8 maximum penalties and the penalty certification.

9 MS. SOLARI: Gladly, Your Honor.

10 The indictment has a preamble before the count itself
11 in which it discusses the defendant, Reality Leigh Winner; her
12 employment; her access to classified information; and her
13 class -- and her clearance level. It discusses various levels
14 of classified information to include SCI, which is sensitive
15 comparted information. It also discusses the proper handling
16 and dissemination of classified access -- or classified
17 information and who may access that information.

18 Further, the indictment goes on to discuss in more
19 precise detail the defendant's access to national defense and
20 classified information. It goes on to detail how the defendant
21 went about removing and transmitting national defense
22 information.

23 And then, finally, Count 1 of the indictment alleges
24 a violation of 18, United States Code, Section 793(e), which is
25 willful retention and transmission of national defense

1 information.

2 It incorporates the preceding paragraphs and then
3 states that beginning on or about May 9th, 2017, and continuing
4 until on or about a date unknown but no later than June 3rd,
5 2017, in Richmond County, in the Southern District of Georgia
6 and elsewhere, the defendant, Reality Leigh Winner, having
7 unauthorized possession of, access to, or control over a
8 document containing information relating to the national
9 defense, willfully retained the document and failed to deliver
10 it to the officer or employee of the United States entitled to
11 receive it and willfully transmitted the same to a person not
12 entitled to receive it; to wit: Winner retained the
13 intelligence reporting and transmitted it to a news outlet; all
14 in violation of 18 U.S.C. Section 793(e).

15 Your Honor, the Government certifies that the
16 maximum penalty for violation of 18 U.S.C. Section 793(e) is
17 imprisonment for not more than 10 years, a fine of up to
18 \$250,000 or both, not more than 3 years' supervised release,
19 and a \$100 special assessment.

20 THE COURT: Thank you, Ms. Solari.

21 Is it fair to say, Miss Winner, that you understand
22 the nature of this charge and the maximum penalties associated
23 with the charge?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Now, you do have a right to a formal

1 reading of the indictment. It's simply where, in addition to
2 this in-court summary by Ms. Solari, I would read the entire
3 indictment to you here in court. Most defendants waive that
4 right. But if you'd like me to read the indictment to you
5 before I ask you how you plead, I'll be glad to do that.

6 Do you waive a formal reading of the indictment?

7 THE DEFENDANT: Your Honor, I would like to waive
8 that.

9 THE COURT: Okay. All right. Well, let the
10 record reflect that this defendant has received a copy of the
11 indictment and the penalty certification, waived formal reading
12 of the indictment, and entered a plea of not guilty to the
13 charge contained therein.

14 what is the discovery policy of the Government in
15 this case and the status of providing discovery to defense
16 counsel?

17 MS. SOLARI: Your Honor, this case is out of the norm
18 because it does involve classified information. All of the
19 information in this case must be reviewed to determine its
20 classification level. Additionally, defense counsel need to be
21 cleared for a top secret clearance as well as potentially read
22 into secure compartmented information projects that pertain to
23 this program -- or this case.

24 If there will be any classified information that
25 might be involved in discovery, we would need to proceed under

1 the Classified Information Procedures Act, the first step of
2 which would be to start working out a schedule for review and
3 production of discovery under Section 2. We're not sure at
4 this point how long that process will take. We're still
5 getting our arms around all of the information involved, and
6 we're trying to find out more about defense counsel's current
7 clearance level and how soon we might be able to bump that up
8 to a level sufficient to review anything that might be provided
9 in this case.

10 THE COURT: Okay. In looking at the act, the
11 Classified Information Procedures Act, as well as the
12 associated regulations that were promulgated by the Supreme
13 Court chief justice back in 1981 and also reviewing some sample
14 protective orders, it appears that there is a fair amount of
15 work that needs to be done to make sure that the court
16 personnel, the defense counsel and his staff can have access to
17 the information it needs for the case.

18 My first question to you, though, Ms. Solari, would
19 be: How much information are we talking about that would
20 likely be subject to a classified designation, and how much
21 discovery can we go ahead and get rolling that doesn't involve
22 classified information that you can produce relatively soon?

23 MS. SOLARI: It's my understanding, Your Honor, that
24 we're not at liberty to produce anything more than what's been
25 filed in the public record at this point because, again, it has

1 to undergo a classification review. Even if, to my untrained
2 eye, it might appear at first blush to be unclassified, I have
3 to get that final word from the original classification agency
4 that may own the information to see whether it can be
5 disseminated. So that may take some time.

6 AS to the volume of the information involved, this
7 case has moved very quickly, so we do have forensic
8 information. We have four cell phones, two laptop computers,
9 and a tablet that were recovered from the defendant's
10 residence. We're trying to get those forensically examined as
11 soon as possible. We put a priority on that. I'm not certain
12 yet how long that would take. But, again, all of that
13 information would have to be reviewed as well to determine how
14 much classified may be on those media storage devices.

15 So, again, I don't mean to dodge your question,
16 Your Honor, but I am afraid we just don't know at this point.

17 THE COURT: Okay. Well, back to my original
18 question, in terms of the discovery policy of the Government,
19 is the Government going to pursue the open file discovery
20 policy that it normally does in this case or drop back to more
21 of the Rule 16 obligations?

22 MS. SOLARI: Rule 16, Your Honor, I think, because we
23 have to be very -- certainly, we will give whatever we are able
24 to defense counsel. We're not looking to go out of our way to
25 withhold anything. But already we have been given very strict

1 limitations on what we are able to say and how we're able to
2 say it thus far in the proceedings. I imagine that will
3 continue to a certain extent, and so I think we will probably
4 be a bit more conservative than usual in our discovery simply
5 because that's required for national security reasons.

6 THE COURT: Do you have any estimate of how long it's
7 going to take before you're going to know what information is
8 out there that can be produced that's not subject to any kind
9 of confidentiality protection versus what else is left and how
10 long we might be before we get that information exchange?

11 MS. SOLARI: If I may, Your Honor, I'll ask my
12 co-counsel. This is Mr. David Aaron, who's with the National
13 Security Division, counterespionage section. He is much more
14 practiced in these matters than I. I know he's been talking
15 with people at the National Security Division to try to get an
16 estimate on what we're looking at. I don't know that one is
17 available.

18 Mr. Aaron.

19 MR. AARON: Good afternoon, Your Honor.

20 THE COURT: Good afternoon.

21 MR. AARON: Thank you for allowing me to appear here.

22 we don't know yet, with regard to the classified side
23 of this, really how much material we're looking at yet that
24 might potentially be discoverable and that we have to make a
25 motion with respect to under classified information procedures.

1 THE COURT: Okay. Well, probably the best way for us
2 to proceed -- I think that the Classified Information
3 Procedures Act in Section 2 contemplates planning conferences
4 with the Court where we can get our arms around this stuff and
5 make sure that we get all of the past completed in a timely
6 manner that we need to because there's some work the Court
7 needs to do in terms of getting a list of personnel for
8 clearances and -- et cetera. And I don't want us to rest on
9 this. I want to treat it with the urgency it deserves.

10 So my proposal would be that, Ms. Solari, you get
11 together with defense counsel and have a very open discussion
12 with as much information as you can give him about how this
13 process is going to begin.

14 Is the Government, Mr. Aaron, going to propose a
15 protective order in this case?

16 MR. AARON: For the classified side, yes, Your Honor.
17 That's under Section 3 of CIPA. We'll be starting with
18 Section 2 for the conference that Your Honor referenced --

19 THE COURT: Okay.

20 MR. AARON: -- and then we'll follow the protective
21 order.

22 THE COURT: How much time do you need to confer with
23 defense counsel, get your arms around the discovery that's out
24 there, give them a draft protective order, and for us to get
25 back together again and have an informed, productive discussion

1 about these issues?

2 MR. AARON: Your Honor, I think we're not -- we're
3 still not familiar with the exact volume of particularly
4 digital information that we have to review. I might
5 respectfully suggest a status conference in short order to give
6 you a better answer.

7 THE COURT: Okay. When you say "short order" -- I
8 mean, I don't want to call you back next week and not have any
9 productivity because you've not been able to run down these
10 things.

11 How much time do you reasonably need before we get
12 back together?

13 MR. AARON: Your Honor, I think that 2 weeks to check
14 in would be a good time frame.

15 THE COURT: Mr. Nichols, do you have any objection to
16 2 weeks and having that process occur where they discuss it
17 with you and figure out what they have and then us get back
18 together to talk about how we proceed?

19 MR. NICHOLS: No, Your Honor, I have no objection. I
20 am fully prepared to meet with the Government. In regards to
21 my current classif- -- security level, I am prepared to provide
22 any and all documentation necessary to increase my security
23 level.

24 THE COURT: Okay. All right. Well, we'll schedule
25 that for 2 weeks from now. Ms. Cirillo will confer with

1 counsel to make sure that we accommodate schedules but also
2 have this in a timely manner in that time frame.

3 MS. SOLARI: Your Honor, given what we've just
4 discussed about the complexity of the information in this case
5 and the time it will take to go through the classified
6 information procedures, may I respectfully ask that the Court
7 designate this case as one that is complex such that we are not
8 bound by the regular restrictions of the Speedy Trial Act?

9 THE COURT: Mr. Nichols, do you have any objection to
10 designating this as a complex case under the Speedy Trial Act?

11 MR. NICHOLS: No objection, Your Honor.

12 THE COURT: Okay. All right. We will do so.

13 In terms of the indictment, I believe that's all that
14 we need to discuss today except for the plea itself.

15 How do you plead to the charge, Miss Winner?

16 THE DEFENDANT: Not guilty, Your Honor.

17 THE COURT: Let the record reflect that this
18 defendant has received a copy of the indictment and penalty
19 certification, waived formal reading of the indictment, and
20 entered a plea of not guilty to the charge contained therein.

21 Is there anything further with respect to the initial
22 appearance on the indictment that we need to take up from your
23 perspective, Mr. Nichols, before we can begin with the
24 detention hearing?

25 MR. NICHOLS: Nothing from the Defense, Your Honor.

1 THE COURT: Ms. Solari, anything from the Government?

2 MS. SOLARI: No, sir, Your Honor.

3 THE COURT: All right. Mr. Nichols, you may take a
4 seat with counsel -- I mean, with your client.

5 Before we begin with the substance of the detention
6 hearing, Miss Winner, there is something I do want to emphasize
7 to you. At all times, you are entitled to the presumption of
8 innocence. Nothing that takes place in this hearing today and
9 nothing that I may set forth in my findings with respect to
10 this detention issue is intended or should be construed to
11 affect that very important presumption of innocence that you
12 have.

13 Rather, the purpose of this hearing is to determine,
14 notwithstanding that presumption of innocence, whether you
15 should be detained pending trial. So I want you to remember
16 that as we go through this process today and as I make my
17 findings and enter a final order with respect to the detention
18 issue.

19 Ms. Solari, are there any opening remarks that the
20 Government would make -- like to make before it begins with any
21 proffers or witnesses?

22 MS. SOLARI: No, Your Honor. But because of the
23 nature of the case and how circumspect we have to be about what
24 we say and how we say it, if it please the Court, the
25 Government does like to proceed by proffer.

1 THE COURT: Okay. And, Mr. Nichols, anything you'd
2 like to say in opening before Ms. Solari begins with her
3 proffer?

4 MR. NICHOLS: Yes, Your Honor. We are here on
5 behalf of Miss Reality Leigh Winner. We are going to present
6 testimony from several witnesses who will testify to the fact
7 that Miss Winner is not a risk to the community and she is not
8 a risk of flight. We have testifying both her mother,
9 Billie Winner-Davis; her stepfather, Gary Davis; as well as
10 her friend, Ann Demasi, will testify to the relevant facts
11 and, of course, the 18 U.S.C. 3142 in regards to Miss Winner
12 receiving -- being released pretrial.

13 THE COURT: Thank you, Mr. Nichols.

14 would the Government like to invite -- invoke the
15 rule of sequestration?

16 MS. SOLARI: We would, Your Honor.

17 THE COURT: All right. Would those three witnesses
18 please stand if they're in the courtroom.

19 All right. The Government has invoked the rule of
20 sequestration. That means that you must exit the room while we
21 begin this process here. You will be called to testify
22 individually. While you're waiting to be called, please do not
23 discuss this case with anyone. Keep those comments and remarks
24 about anything other than the case itself -- the purpose of
25 this rule is to make sure that you don't conform your

1 testimony, either intentionally or unintentionally, to facts
2 and testimony that others may offer in the case.

3 And so with that, if you would please be excused,
4 we'll call you when it's time for your testimony.

5 (The witnesses exited the courtroom.)

6 THE COURT: Ms. Solari.

7 MS. SOLARI: Thank you, Your Honor.

8 Do I have the Court's permission to proceed by
9 proffer?

10 THE COURT: You may.

11 MS. SOLARI: Thank you, sir.

12 Your Honor, first, the Government reasserts and
13 realleges the facts contained in Special Agent Justin Garrick's
14 sworn affidavits in support of the search warrant and the
15 criminal complaint in this case with which I know the Court is
16 familiar.

17 Your Honor, I'd also like to proffer some additional
18 evidence that we did not include in the affidavits as well as
19 some information we learned from the defendant and from
20 evidence collected at her residence and information that we
21 have learned from publicly available sources. Some of it
22 confirms what we already knew. Some of the information is new
23 and disconcerting. Some of the information is new, and it is
24 downright frightening.

25 First, I'd like to proffer some information to

1 flesh out the summary that Your Honor received in the criminal
2 complaint of the defendant's conversation with FBI agents at
3 her home on June 3rd, 2017, the entirety of which was
4 audio-recorded.

5 Agents approached the defendant with a search warrant
6 issued by this Court, explained to her who they are and that
7 they had a search warrant, asked whether she'd like to speak
8 with them on a voluntary basis; and the defendant said that she
9 would.

10 The defendant then, once the house was cleared, was
11 allowed to go into the home where she let out her dog. She put
12 her groceries away. She put up her cat so that it wouldn't run
13 outside. And then as they got ready to find a more comfortable
14 place to have a more precise discussion, the defendant swapped
15 stories with Special Agent Garrick about their respective dogs.

16 The defendant asked whether she'd be without her cell
17 phone for very long. She said, "Is this one of these things
18 where I've brought my phone into a classified space? Are you
19 going to take it for 3 weeks or something? Because I'm
20 teaching yoga tomorrow, and I'd really like to have it. It has
21 my music on it."

22 She told agents that she'd be comfortable speaking in
23 a back room of her home rather than them giving her a ride to
24 the FBI office. They went into that back room escorted by the
25 defendant where, after chatting about her background, her

1 interests, her job, the agents asked her a series of questions
2 about whether she had any idea why they were there and whether
3 she could think of any time that she might have mishandled
4 classified information.

5 After telling several untruths to the agents, the
6 defendant finally admitted that, in fact, she purposely sought
7 out the intelligence-reported issue on a classified system.
8 She admitted she purposely printed it out. She admitted she
9 secreted it out of a secure building and that she stored it in
10 her car for a couple of days. She told the agents she then
11 mailed the document from Augusta, Georgia, to a particular news
12 agency that she admired hoping that the information in the
13 document would be published.

14 She acknowledged the information in the report could
15 be used to injure the United States or to assist a foreign
16 nation. In fact, she specifically mentioned, when asked about
17 that, sources and methods, which is what intelligence personnel
18 call the manner and means by which the U.S. and others gather
19 sensitive and classified information.

20 She told agents how to access her cell phone and told
21 them they'd find a screenshot on there of the news agency's
22 secure drop mailing address. She also said her laptop had a
23 Tor browser installed which she had used to access WikiLeaks,
24 but she actually said she was, quote, underwhelmed with what
25 WikiLeaks had to offer.

1 when asked why she revealed or transmitted the
2 classified information, the defendant said she was mad about
3 some things she'd seen in the media and she wanted to set the
4 facts right. She said she couldn't understand why this report
5 hadn't been leaked already.

6 when asked whether she'd ever committed other
7 security violations like inserting a thumb drive or another
8 storage device into a classified computer, the defendant said
9 she once put a thumb drive into a secret-level computer just to
10 figure out how other people were getting personal photos onto
11 their secret computer.

12 well, agents already knew that, in fact, on
13 November 9th of 2016 while working in the Air Force and holding
14 a TS/SCI clearance, the defendant used her work computer to
15 search, quote, Do top secret computers detect when flash drives
16 are inserted, end quote.

17 Later that same day, the defendant inserted a
18 removable thumb drive into a top secret computer.
19 Unfortunately, we don't know yet what she did with that thumb
20 drive while it was inserted, but we do know she inserted the
21 thumb drive just days before she was read out of classified
22 compartmented programs and her access terminated as she left
23 the Air Force.

24 Following her confession and after a decision was
25 made to arrest the defendant, agents allowed the defendant to

1 call somebody to help care for her pets. The defendant called
2 an animal rescue organization and asked for their help, telling
3 them that she would not be back.

4 On the Sunday after her arrest, the defendant spoke
5 to her mother on the recorded jail phone.

6 Her mom asked her, "Do you know what you're getting
7 charged with?"

8 The defendant answered, "Mom, those documents. I
9 screwed up." The defendant said she was preparing herself like
10 she wasn't coming home.

11 What's most concerting to the Government, though,
12 Your Honor, about that conversation is the defendant's specific
13 use of the word "documents" plural because, so far, she has
14 only admitted to agents taking and sending the single
15 intelligence report that we know about.

16 As I mentioned earlier, Your Honor, agents gathered
17 four cell phones, two laptops, and one tablet from the
18 defendant's house in addition to notebooks and other items
19 listed in the search warrant. They also found, with the
20 defendant's assistance, an AR-15 rifle, a 12-gauge shotgun,
21 and a Glock handgun. The defendant agreed to surrender those
22 firearms to law enforcement for temporary storage.

23 While we have been waiting on forensic examinations
24 of those media storage devices, agents have been poring over
25 all of the hard copy material that we were able to retrieve

1 from the residence. We need to see what we're dealing with
2 here.

3 In particular, agents found two notebooks containing
4 handwriting including numerous doodles of the defendant's own
5 name. And what we surmised from the notebooks is that she
6 writes down quite a lot of things. For instance, the agent
7 found handwritten notes in the defendant's notebooks about the
8 following:

9 How to instore [sic] Tor -- install Tor, which, as
10 I'm sure the Court knows, is The Onion Router, which is a means
11 to anonymously access the Dark web through multiple successive
12 layers of encryption. The Dark web has, of course, some
13 legitimate uses, but it's most widely known for illicit
14 criminal marketplaces where one could buy or sell classified
15 information, phoney identification documents, passports, drugs,
16 weapons, and just about any sort of contraband one could want.

17 The defendant had detailed instructions in her
18 notebook regarding how to use the software and, most important,
19 how to use it at its most secure setting. That would enable
20 her to navigate the Dark web while hiding her identity and her
21 location.

22 Agents also found handwritten notes that detailed a
23 step-by-step plan for unlocking a cell phone to enable her to
24 change the SIM cards. Doing that allows a person to untie
25 their cell phone from their regular provider when they remove

1 the issued SIM card, which is tied to the billing and usage
2 data for that particular customer.

3 unlocking the phone allows the customer to purchase
4 with cash an anonymous SIM card from a grocery store or
5 elsewhere, insert the new card, and hop onto another provider's
6 network. Use of the phone in that condition, Your Honor, makes
7 it a burner phone that hides the user's identity, usage, and
8 location.

9 More of the defendant's notes indicate she was
10 setting up a single-use burner e-mail account that would only
11 be active for a short period of time and that would allow her
12 to send e-mail without revealing her identity or her location.
13 The founder of the e-mail service I'm describing describes it
14 online as, quote, one-click, read-only burner mailboxes,
15 unquote.

16 Amongst the notes about the defendant's new
17 employment with Pluribus International Corporation where she
18 scribbled notes about dental and health insurance, she also
19 wrote, quote, I want to burn the White House down, and on the
20 next line wrote, Find somewhere in Kurdistan to live or Nepal.
21 Ha ha. Maybe, end quote.

22 Another note said, quote, Mexico in the spring.
23 Afghanistan in the summer. Asia and Jordan in between,
24 unquote.

25 One of the more disturbing entries, Your Honor, as

1 if this weren't bad enough, was a one-page writing in which the
2 defendant mentions a number of interesting names that drew our
3 concern, if not alarm. Those names were Akhtar Mansour;
4 Mullah Omar; and Mullah Omar's son, Yaqoob. She also mentions
5 Osama bin Laden.

6 As the Court may know, but for your edification,
7 Mullah Akhtar Mohammad Mansour was leader of the Taliban from
8 July 29th, 2015, until May 21st, 2016, when he was killed in a
9 U.S. drone strike in Pakistan.

10 Mullah Mohammed Omar is an Afghan mujahideen
11 commander who founded the Islamic Emirate of Afghanistan in
12 1996. He was recognized as the supreme leader of the Muslims
13 until he was succeeded by Mullah Akhtar Mansour in 2015. Omar
14 sheltered Osama bin Laden and Al-Qaeda militants in the years
15 prior to the 9/11 attacks; however, he reportedly passed away
16 in February 2013.

17 "Yaqoob" refers to Mullah Omar's oldest son,
18 Mullah Mohammad Yaqoob. Yaqoob was assigned by the Taliban to
19 be in charge of the military commission of 15 of Afghanistan's
20 provinces. Upon the death of Mansour, Yaqoob was appointed
21 second deputy to the new Taliban chief.

22 The defendant ended her page-long writing with,
23 quote, Perhaps bin Laden was the Judas to Omar's Christ-like
24 vision of a fundamental Islamic nation. Yaqoob would know.
25 where is Yaqoob? Pakistan. I can go there. Urdo. Goddamnit,

1 end quote.

2 Later in the same notebook, the defendant writes in
3 all capital letters, quote, This is your chance, above
4 notations about a possible 12-month contract job that would
5 bring her to a SCIF in Afghanistan.

6 The defendant is a skilled linguist in the languages
7 of Farsi, Dari, and Pashto. Some of her notes, Your Honor,
8 appear to be in one or more of those languages. We've not yet
9 translated them.

10 Agents researched the defendant's travel history and
11 learned that she's traveled to Mexico various times between
12 August 2002 and August 2006. And we've also learned, as
13 Your Honor saw in the search warrant affidavit, that the
14 defendant went all the way to Belize for a 3-day trip May 27
15 through 29 of this year, which trip she told agents she took
16 alone and insisted that she met with no one. The agents also
17 know that the defendant, prior to her arrest, was researching
18 travel from Atlanta to Tel Aviv, Israel, departing in September
19 of 2017.

20 We know from open-source online research that
21 Julian Assange, international fugitive and founder of
22 WikiLeaks, has praised the defendant via Twitter posting a
23 photo of her and telling his 223,000 followers, quote, Alleged
24 NSA whistleblower Reality Leigh Winner must be supported. She
25 is a young woman accused of courage and trying to help us know,

1 unquote.

2 To that end, someone has set up a GoFundMe page for
3 the defendant, which, as of last night, having been up for
4 only 2 days, had collected \$12,415 of its \$50,000 goal from
5 284 donors.

6 Those people may be quite disappointed, Your Honor,
7 if they heard some of her recorded jail calls. She told a
8 woman named Brittany, whom we believe to be her sister, about
9 what she'd done. She said she released a document that we were
10 able to trace to her and it was, quote, kind of an important
11 one, end quote.

12 She then told Brittany about her upcoming bond
13 hearing. She said she didn't want to spend the rest of her
14 life in jail and that she was, quote, gonna play that card
15 being pretty, white, and cute; braid my hair and all, gonna
16 cry.

17 Also on recorded jail calls, Your Honor, the
18 defendant has just recently asked her mother to transfer
19 \$30,000 from the defendant's account to her mother's account
20 because the Court took away her free appointed counsel. She's
21 also told her mother precisely what to say in various press
22 appearances, some of which appear to have been arranged by
23 defense counsel.

24 She told her mom to say that she feared for her life
25 as well as that of her dog and cat when armed agents swarmed

1 her house. She told her mom, quote, You've got to play that
2 angle, end quote.

3 And she stated on the jail phone that if she doesn't
4 get bond today, she's going to, quote, go nuclear with the
5 press because that's how Mannon (phonetic) got out.

6 That's the evidence the Government wishes to proffer,
7 Your Honor, and I respectfully request we be allowed to make
8 argument at the appropriate time.

9 THE COURT: Thank you very much, Ms. --

10 MS. SOLARI: Thank you, sir.

11 THE COURT: -- Solari.

12 Mr. Nichols.

13 MR. NICHOLS: Yes, Your Honor. Defense calls
14 Billie winner-Davis to the stand.

15 (The witness, Billie winner-Davis, was sworn.)

16 COURT CLERK: Please state your name for the record.
17 Spell your last name.

18 THE WITNESS: Billie winner-Davis,
19 W-i-n-n-e-r-D-a-v-i-s.

20 COURT CLERK: Thank you.

21 BILLIE WINNER-DAVIS,
22 having been duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. NICHOLS:

25 Q. Good afternoon. How are you doing today?

1 A. Okay. I'm a little nervous.

2 Q. I know this might sound like a foolish question, but do
3 you recognize the defendant?

4 A. I sure do.

5 Q. How do you recognize her?

6 A. That's my daughter, Reality winner.

7 Q. Where did Reality grow up?

8 A. Reality was born in Alice, Texas, which is a small town
9 about 40 miles west of Corpus Christi, Texas. And about --
10 when she was 1 years old, we moved over to Kingsville, Texas,
11 which is just about 30 miles -- it's all in the Coastal Bend
12 area. She grew up in Coastal Bend Texas in the Kingsville
13 area.

14 Q. Who all lived with Miss Winner?

15 A. In our household, it was myself, her father, and then her
16 sister Brittany. And then when she was about 8, her dad and I
17 separated, and we divorced. And then in 2000, I married
18 Gary Davis, so Gary Davis moved into the household. But those
19 were the primary residents of that household.

20 THE COURT: Mr. Nichols, I don't -- I always hate to
21 interrupt, but you're at a microphone in no man's land right
22 now. If you could just step back behind the lectern where --

23 MR. NICHOLS: I apologize, Your Honor.

24 THE COURT: -- we're sure everything will be
25 recorded, I'd appreciate it.

1 MR. NICHOLS: Yes, sir. I apologize.

2 THE COURT: That's okay.

3 BY MR. NICHOLS:

4 Q. where did she attend -- well, after she graduated high
5 school, what did she do after graduation?

6 A. After she graduated from high school, she was on a
7 delayed-entry program into the Air Force. She had enlisted,
8 and she was waiting for, you know, her call-up date. And so
9 the December after she graduated, she went into the Air Force.
10 She went to Lackland Air Force Base for basic.

11 Q. How long did she serve in the Air Force?

12 A. 6 years.

13 Q. And do you know where she was posted during those 6 years?

14 A. She did her basic training at Lackland Air Force Base in
15 San Antonio, Texas. After that, she went to the Defensive
16 [sic] Language Institute in Monterey, California. After that,
17 she had to go back to Texas to San Angelo -- I think it's
18 Goodfellow -- for training.

19 Let me think. where did she go after that? Then she was
20 sent to Fort Meade in Maryland.

21 Q. During her entire time in the military, do you know if she
22 ever got in trouble while serving in the military?

23 A. She never was in trouble, never.

24 Q. Do you know if she ever fled or went AWOL, away without
25 leave?

1 A. Absolutely not, no.

2 Q. what did she do after she -- well, do you know how she
3 left the military?

4 A. She was discharged honorably.

5 Q. And after she received an honorable discharge, what did
6 she do next as far as employment?

7 A. I know that she had applied for a bunch of contract jobs
8 in different areas, and I know that she had contacts here in
9 Augusta with regard to having employment through -- like, at a
10 gym to teach fitness.

11 So she rented a house here in Augusta. She basically just
12 dropped her things off at the house and drove straight through
13 down to Texas to spend Christmas with us. And after the
14 Christmas and New Year holiday, then she came back up to
15 Augusta, and she was then hired on by whichever company she
16 worked for.

17 Q. During this entire time she served in the military, do you
18 know if she ever spent time here in Augusta?

19 A. Yes. She was deployed here. I'm not certain about the
20 dates, but she served, I think it was, a 6-month deployment
21 here in Augusta at the NSA here where she -- I think it was
22 a -- kind of like a special mission or something, something
23 like that.

24 Q. And during her entire time in the military, how often did
25 she come home to visit?

1 A. She came home during Christmas whenever she could. When
2 she was on deployment, she couldn't because that wasn't
3 allowed. But she came home, you know, for Christmas. I'm
4 trying to think if there's any other times that she came home.
5 And then one time, we met the girls up in Williamsburg,
6 Virginia, for, like, an extended long weekend.

7 Q. Did she always keep in contact with her family even though
8 she wasn't physically in your presence?

9 A. Yes, always, always.

10 Q. During her time here in Augusta, do you know what type of
11 activities she was involved in outside of work?

12 A. Outside of work, involved in CrossFit, involved in yoga.
13 She teaches yoga. She practices yoga. She's involved in
14 spinning. She teaches spinning. She has been involved in some
15 marathons. I think there was a recent mud run for the Marines
16 she was involved in and that she -- she's hooked up with a
17 church here, an Episcopalian --

18 Q. Do you know which church she attended?

19 A. I think it's the Good Shepherd Episcopalian church that
20 she attended here.

21 I'm trying to think what else. What else has she done
22 here?

23 Q. Do you know if she's had any type of rela- -- profess- --
24 personal relationships with anyone here in Augusta?

25 A. Yes, she has. She has very good friends that she actually

1 knew from Monterey DLI that she went to training -- and they
2 actually -- we had a chance to spend time with them and meet
3 them in San Angelo, Texas, because they all went together to
4 the different trainings. And they were stationed here at Fort
5 whatever here -- Gordon. Sorry.

6 Q. In regards to her cell phone, do you know whose account
7 her cell phone is on?

8 A. It's on our account. The account is in my husband's name,
9 Gary Davis.

10 Q. Have you ever known her to have multiple cell phone
11 accounts?

12 A. No.

13 Q. Have you ever known her to have multiple working phones?

14 A. Not working phones, but she -- she switches out a lot.

15 Q. In regards to traveling the country, do you know when she
16 has ever left the country to, say, go to Mexico?

17 A. When she was small. When she was small, you know, it --
18 that was before you needed a passport. We used to go to Mexico
19 to go shopping. That was a thing -- that's a thing that you
20 do. And then she also -- her and her sister got their braces
21 done in Mexico. All their orthodontic work was done in Mexico,
22 so -- her dad took care of that. And so on his weekends, they
23 would go and get their orthodontic -- but since then, I don't
24 think she's been to Mexico.

25 Q. My next question is going to be: As an adult, do you know

1 if she's gone to Mexico?

2 A. Not to my knowledge, no.

3 Q. As an adult, do you know what other countries she's gone
4 to?

5 A. She went to Belize over this last holiday weekend, and
6 that's it.

7 Q. As a juvenile, did she have any criminal record?

8 A. No, sir.

9 Q. As an adult, do you know if she's ever been convicted of
10 any crimes?

11 A. No.

12 MR. NICHOLS: Court's indulgence, Your Honor.

13 THE COURT: Of course. Take your time.

14 BY MR. NICHOLS:

15 Q. Now, you previously spoke about her sister Brittany.

16 Does Miss Winner have any other relatives in the country?

17 A. Yes, she does. She has another half sister, who's in
18 Texas. She has three stepsiblings. One's in Texas. One's in
19 Monterey, California. One is in Nashville, Tennessee.

20 My family is in Wisconsin. She's extremely close to my
21 sister and my sister's family, which would be my sister, her
22 husband, and they have four children and then all of the -- all
23 of their grandchildren.

24 Q. Does Miss Winner have any godchildren?

25 A. Yes, she does. She is the godmother for -- he would be my

1 great nephew, Aries Messerschmitt (phonetic).

2 Q. In regards to her training, did she have any skills before
3 she went into the Air Force in regards to languages? Did she
4 teach herself any languages before going into the Air Force?

5 A. Yes. She had begun to self- -- teach herself how to speak
6 Arabic. She had ordered instructional materials online and was
7 studying the Arabic language before she even -- I think before
8 she even approached a military recruiter.

9 Q. And about what age was she when she began to study the
10 Arabic language?

11 A. Probably 17.

12 Q. Are you aware of any other schools or training that she's
13 received?

14 A. She has college credit. She has an associate's degree in
15 the Persian-Farsi and Dari course from the DLI. She also has
16 quite a few college credits: business, business management,
17 nutrition -- I'm trying to think what else -- your basics, the
18 basic (indiscernible), so . . .

19 Q. Do you know if she had any intentions of attending school
20 locally?

21 A. Yes. I know she had applied -- I think she had applied to
22 Georgia here, and she had also applied to Baylor. I have the
23 acceptance letter at home.

24 Q. In regards to the schools, do you know what schools she
25 had been accepted into?

1 A. I received the Baylor acceptance letter. That's the only
2 one that I'm -- I'm pretty sure she was accepted here, too.

3 Q. And if you know, what grades did she possess in the -- her
4 training?

5 A. All A's. what grades?

6 Q. Yeah.

7 A. Yes. She's -- yes.

8 Q. In school, grade school specifically, what type of student
9 was she? That's probably a better question.

10 A. She was top 10 of her class the entire way entirely.

11 Q. I know you said that she had no juvenile criminal
12 offenses.

13 Do you know if she ever got in trouble while in school?

14 A. One time in the eighth grade.

15 Q. what happened then?

16 A. Eighth grade, they were preparing for graduation. It's a
17 big deal. She was going to a small country school where we
18 live. we live outside of Kingsville. And they were preparing.
19 They didn't know if she was going to be the valedictorian or
20 the salutatorian, but they were preparing.

21 And Reality, she -- I guess she got her classmates all
22 together, and they -- they had the biggest, bestest food fight
23 that the school has ever imagined, and she was not allowed to
24 walk the stage.

25 Q. Other than that incident, are you aware of her getting in

1 trouble at all in school -- grade school?

2 A. No, no.

3 Q. If the Court were to grant a bond that required property
4 or money, would you and your husband be willing to sign as a
5 bondholder?

6 A. Yes, absolutely, absolutely.

7 Q. If you were required to put up money, would you and your
8 husband be willing to do that?

9 A. Yes, as much as we could.

10 Q. And would you be willing to do everything within your
11 possible [sic] to ensure that Miss Winner came to every court
12 appearance as required?

13 A. Yes. Yes, I would.

14 MR. NICHOLS: Thank you.

15 Your Honor, I have no further questions for this
16 witness.

17 THE COURT: Any cross-examination?

18 MS. SOLARI: Yes, please, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. SOLARI:

21 Q. Good afternoon. I appreciate you being here. I'm certain
22 your daughter does as well. I know this is certainly an
23 emotional situation for everybody and one in which you're not
24 able to know the entirety of what's going on right now. I'm
25 sure that's frustrating for you, and I am sorry for that.

1 I'd just like to ask you a few questions. I was listening
2 as closely as I could when you were talking about your various
3 relatives, kind of Wisconsin, Texas, and various places.

4 Do you have any family in Georgia?

5 A. No, not currently.

6 Q. And as far as the house that your daughter was occupying
7 at the time of her arrest, she was renting that home?

8 A. Yes, she is.

9 Q. So she doesn't own any property here in the state of
10 Georgia?

11 A. No.

12 Q. And you're aware, I'm sure, much to your disappointment,
13 that she will likely lose her job over the behavior that's been
14 alleged in this case?

15 A. One of her jobs.

16 Q. Okay. The job that she will retain -- she teaches yoga;
17 is that right?

18 A. And spinning.

19 Q. And spinning. Okay.

20 And so those are the jobs that she might be able to carry
21 on with?

22 A. Yes.

23 Q. Okay. How do you and your daughter usually communicate?
24 You live in Texas -- correct? --

25 A. Yes.

1 Q. -- while she lives in Georgia?

2 what's your typical method of communication?

3 A. She calls. She calls. She's the -- religiously. She
4 calls weekly -- at least once a week, and we talk at length the
5 one time a week and maybe twice a week. We text almost daily,
6 e-mail. She e-mails me from time to time.

7 Q. Has the defendant ever contacted you through a secure
8 e-mail system, perhaps something other than just Gmail,
9 Hotmail, Yahoo!, anything like that?

10 A. No.

11 Q. So nothing out of the ordinary?

12 A. No.

13 Q. Has she ever contacted you through a service called
14 slippery.com?

15 A. No.

16 Q. Has she ever talked to you about any need to set up an
17 account through that service?

18 A. No.

19 Q. Now, you said that your daughter has -- and this may be
20 true for a lot of us. We have old phones we don't use anymore
21 but we haven't thrown away. So we found quite a few at her
22 home.

23 But has she ever talked to you, though, about switching
24 out SIM cards on her phone, if you know what that is?

25 A. Yes. And she does that.

1 Q. Okay. So she's talked to you about switching SIM cards
2 out on her phone.

3 Do you know how many phones she does that with?

4 A. No.

5 Q. And -- so then you're aware that when she removes the SIM
6 card from her phone, your provider, since you maintain her
7 account -- correct?

8 A. She's -- her phone is -- her phone number is under our
9 account.

10 Q. Okay. And so then when she removes the SIM card from
11 her phone, is it the case that her phone usage doesn't appear
12 anymore on your billing statement?

13 A. No. Her phone -- that number always appears on our
14 billing.

15 Q. No. I'm sorry. I mean the actual usage of her phone.

16 Are you aware that that's really the consequence of
17 removing a SIM card from your phone? It means the --

18 A. No.

19 Q. -- provider can no longer track your cell phone usage.

20 A. I don't have that knowledge.

21 Q. Okay. Fair enough.

22 Is that something you do? Do you typically switch the SIM
23 cards on your phones?

24 A. No.

25 Q. Would you know how to go about doing that?

1 A. No.

2 Q. Okay. Have you ever heard of Tor or The Onion Router as a
3 software device that would allow you to access certain parts of
4 the Internet?

5 A. No.

6 Q. So fair to say you don't use that service or know how to
7 use it?

8 A. I've never heard of it.

9 Q. So, then, your daughter's never discussed with you her use
10 of The Onion Router or whether she's ever done that?

11 A. No.

12 Q. Has your daughter discussed with you her desire over the
13 years to go to the Middle East, in particular Afghanistan or
14 Pakistan?

15 A. Yes. She wants to go. She wanted to go.

16 Q. Is it fair to say that, well, ever since she joined the
17 military, she's been trying to deploy to Afghanistan?

18 A. I don't know if you would say she's been trying to. I
19 mean, in the military, it wasn't an option for her.

20 Q. Well, that's what I mean.

21 So was she frustrated that her position in the Air Force
22 was not going to give her an opportunity to go to Afghanistan?

23 A. I think, in the beginning, that's one of her -- that she
24 had wanted to. But, I mean, very quickly on, she learned that
25 she wasn't going to.

1 Q. Isn't that, in fact, why she left the Air Force, because
2 they wouldn't offer her any ability to deploy to Afghanistan;
3 those were -- abilities were being given to special forces-type
4 persons?

5 A. I don't know if that was the reason. That might have been
6 one of many reasons.

7 Q. Okay. And, of course, listening to you talk about your
8 daughter's accomplishments, she's extremely intelligent;
9 correct?

10 A. Yes, she is.

11 Q. And, in fact, I think you said she -- she's essentially
12 self-taught these Middle Eastern languages, begun at the age of
13 about 17?

14 A. Yes. She started.

15 Q. Has she always had that interest in traveling to the
16 Middle East or doing some sort of work over there?

17 A. No.

18 Q. Did she ever tell you why she took up an interest at the
19 age of 17 in learning Arabic or Farsi or Dari or any of those?

20 A. She loves that language.

21 Q. All right. Fair enough.

22 Has she ever discussed with you a desire to go to Pakistan
23 to meet with -- I know it's going to sound like a silly
24 question.

25 Has she ever discussed with you a desire to go to Pakistan

1 to meet with leaders of the Taliban government?

2 A. No.

3 Q. I recognized you when you came in because I've seen you on
4 certain media appearances. And I commend you. I know that you
5 are trying to do what you believe is right to get your
6 daughter's side of the story out there.

7 But can I ask you: who set up your media appearances for
8 you? In other words -- I think you were with Anderson Cooper
9 on CNN. I think I saw you on another program. I can't
10 remember the name of it. who set those up?

11 A. We arranged them with the people. I mean, they -- CNN
12 reached out to us, and then CBS called us. We've told them
13 where we were going to be. They set up a suite. NBC, the same
14 thing. And all the other ones have been ones that have showed
15 up at the house.

16 Q. I'm sure that's kind of annoying.

17 A. It's been a whole different experience for us, nothing --
18 we've never experienced anything like this.

19 Q. I'm sure. And I'm -- I am sorry for that.

20 Did your daughter's defense attorneys set up any of your
21 media appearances for you?

22 A. No, he has not.

23 Q. Did anyone, your daughter or anyone else, tell you
24 expressly what to say in any of your media appearances?

25 A. No, absolutely not.

1 Q. Ma'am, are you aware -- I imagine you must be because it's
2 usually on every single call you'd receive from the jail, but
3 are you aware that the phone calls you've had with your
4 daughter since she's been incarcerated have been recorded?

5 A. Yes.

6 Q. So I'd like you to think back, then, before you answer
7 this question.

8 At some point, did your daughter ask you to make sure
9 that, in your media appearances and at court, you told everyone
10 the details of how the FBI approached and interviewed her on
11 the day she was arrested?

12 A. Yes, she did.

13 Q. And she told you she feared for her life and the life of
14 her pets and thought she -- they might make her disappear and
15 things like that?

16 A. Yes, she did.

17 Q. Now, of course, you were in Texas at the time all this
18 happened; right? You weren't at her home in Augusta, Georgia,
19 with the agents?

20 A. That's right.

21 Q. So the best you can do, then, is rely on your daughter's
22 account of how that interaction played out; right?

23 A. Yes.

24 Q. And do you remember her using the words, when she told you
25 what to say, that you need to, quote, play that angle?

1 A. Yes, I remember her saying that.

2 MS. SOLARI: Thank you, ma'am. I appreciate your
3 candor, and I appreciate you being here today.

4 THE COURT: Any redirect, Mr. Nichols?

5 REDIRECT EXAMINATION

6 BY MR. NICHOLS:

7 Q. Ma'am, do you -- based upon everything you know about your
8 daughter and everything you've learned so far, do you have any
9 fear that your daughter was going to flee the country?

10 A. Absolutely not, no.

11 Q. Do you know if she owns any property outside of the
12 country?

13 A. No, she does not.

14 Q. Do you have any fear that she's going to flee in general?

15 A. No.

16 Q. Do you have any fear that she's going to commit a new
17 crime or any violent crime?

18 A. No.

19 MR. NICHOLS: No further questions, Your Honor.

20 THE COURT: Any follow-up to that, Ms. Solari?

21 MS. SOLARI: No, Your Honor.

22 THE COURT: Ms. Winner-Davis, I really appreciate you
23 being here today. Obviously, you're a good mom, and you love
24 your daughter very much. And so I very much appreciate the
25 love you have for her and the time and expense it took you to

1 get here and support her. So thank you very much.

2 And at this time, you may be seated in the courtroom
3 if you like. I don't believe there would be any objection if
4 you want to be excused as well.

5 Ms. Solari?

6 MS. SOLARI: I have no objection, Your Honor.

7 THE COURT: Mr. Nichols?

8 MR. NICHOLS: I have no further intention of calling
9 this witness, Your Honor.

10 THE COURT: Okay. Well, you're excused. Thank you
11 for your time.

12 MR. BELL: Your Honor, we'd call Gary Davis to the
13 stand, please.

14 (Pause in proceedings from 4:51 p.m. to 4:53 p.m.)

15 (The witness, Gary Davis, was sworn.)

16 COURT CLERK: Please state your name for the record.
17 Spell your last name.

18 THE WITNESS: Davis, G- -- D-a-v-i-s, Gary, G-a-r-y.

19 COURT CLERK: Thank you.

20 GARY DAVIS,

21 having been duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BELL:

24 Q. Mr. Davis, could you tell us your full name and where you
25 live.

1 A. My name is Gary Davis. I live in Kingsville, Texas.

2 Q. And what do you do for a living, sir?

3 A. I'm a director in a treatment facility for adolescents.

4 Q. Okay. And what are you treating these adolescents for?

5 A. Substance abuse.

6 Q. Okay. How long have you done that?

7 A. I have been at my present facility for more than 10 years.

8 Q. Okay. And do you find that to be rewarding work?

9 A. Yes, sir, I do.

10 Q. Do you find it to be challenging work?

11 A. It's challenging and rewarding.

12 Q. Okay. What would your educational background be?

13 A. I graduated from high school in Corpus Christi, Texas, and
14 went to work in the field and went to work -- started out at --
15 study -- planning to be a veterinarian, attended West Texas
16 State University for a few years until my junior year, and then
17 life intervened.

18 Finally, in my mid 30s, I went back to school at Angelo
19 State University, finished my undergraduate degree, and earned
20 a scholarship to attend graduate school.

21 Q. And what are your degrees in?

22 A. Counseling psychology, sir.

23 Q. And the same for undergraduate and master's?

24 A. Yes, sir.

25 Q. And where did you get the master's?

1 A. Angelo State University.

2 Q. Okay. Now, how old was Reality when you and her mother
3 married?

4 A. She'd just turned 9.

5 Q. Okay. And you were the man in the house from age 9 on?

6 A. Yes, sir.

7 Q. Was she a troublesome child?

8 A. No, sir.

9 Q. Okay. How was she as a student as a young child?

10 A. I'm sorry?

11 Q. How was she as a student as a young child?

12 A. Pretty strong-willed. But, you know, a lot of children
13 are. It was a difficult time blending a family together.

14 Q. Okay.

15 A. My children had as much trouble blending with that as she
16 did.

17 Q. Okay. Did she ever -- any trouble at school?

18 A. (No response.)

19 Q. I'm talking about, you know, serious things.

20 A. She was not a disciplinary problem. She -- the worst
21 thing she ever did was the eighth grade graduation, orchestrate
22 a food fight.

23 Q. Okay. How were her grades?

24 A. She's been a straight-A student all her career.

25 Q. And what sort of activities did she participate in in

1 middle and high school?

2 A. Since she was small, she played soccer. She was very
3 interested in soccer. She played soccer from -- I coached her
4 soccer team when we were -- she was little up through junior
5 high.

6 In high school, she was active one year with cheerleading.
7 She was the mascot of her high school cheerleading team. And
8 later on, she played tennis.

9 Q. Uh-huh. Do you know if she was accepted to any college
10 when she finished high school?

11 A. The day she left for the military, she told her mother
12 that she had been -- turned down a full scholarship to
13 Texas A&M University in Kingsville as an engineering
14 scholarship.

15 Q. Reality turned down a scholarship --

16 A. Yeah.

17 Q. -- in engineering by Texas A&M offered to her?

18 A. She chose to enlist in the United States Air Force
19 instead.

20 Q. Okay. And how long was she in the Air Force?

21 A. She served for 6 years.

22 Q. Okay. Are you aware of her having any problems during her
23 years in service to our country with the Air Force?

24 A. I know of no disciplinary actions that were ever taken
25 against her while she was a member of the Air Force.

1 Q. Okay. And do you know whether or not she planned to
2 continue her education after the Air Force?

3 A. While she was in the Air Force, she earned her
4 bachelor's -- or her associate's degree, and so she'd been
5 planning on pursuing and finishing up her bachelor's degree.

6 Q. Okay. And when she was in high school, did she get any
7 college credit?

8 A. She was enrolled in real course -- real credit courses,
9 so she had about a year's worth of college credit when she
10 graduated high school.

11 Q. These are the AP courses they let the really bright,
12 dedicated students --

13 A. Yeah.

14 Q. -- take?

15 A. They counted for both college credit and for high school.

16 Q. Okay. Now, you heard a good bit about a SIM card in a
17 cell phone.

18 Do you know what a SIM card in a cell phone is?

19 A. Yes, sir.

20 Q. It's the brains of the phone, isn't it?

21 A. Right. It's, exactly, what runs the phone.

22 Q. Are you aware that if your cell phone breaks or if you
23 drop it or if you're working in a gym and crack it, you can get
24 another new cell phone, take your SIM card out and put it in a
25 new phone, and it'll work just like it's been set up?

1 A. Yes. And that's exactly what happened when she was home
2 for Christmas. She broke her phone, and so she used one of my
3 old phones for a while.

4 Q. Now, when she replaced the SIM card in a new phone because
5 the old phone was breaking, did you think she was doing some
6 dangerous criminal act?

7 A. No. She was just trying to make her cell phone work.

8 Q. Okay. Have you ever heard it suggested that someone who
9 replaces the SIM card in a broken cell phone by putting it into
10 a new phone, that they're doing something suspicious of future
11 criminal activity?

12 A. No, sir. That's --

13 Q. Okay.

14 A. -- just not . . .

15 Q. Now, it's been said that she traveled to Mexico.
16 Have you ever known her to go to Mexico?

17 A. When she was a child, she had braces, and she was being
18 treated by an orthodontist in Progreso, Mexico --

19 Q. Did he --

20 A. -- across the border.

21 Q. Did he do good work?

22 A. Yeah, he did.

23 Q. Was he a lot cheaper than the Texas orthodontist?

24 A. I -- you know, her father took care of that --

25 Q. Okay.

1 A. -- and he was the one who would take them to the
2 orthodontist.

3 Q. And about what age was she when she was making these trips
4 to Mexico?

5 A. She was seventh, eighth grade.

6 Q. Okay. Now, is she the only one in your extended family
7 who's chosen to serve the United States in the military?

8 A. My oldest son, Cole, is a sergeant -- a technical sergeant
9 in the United States Air Force.

10 Q. Okay. How long has he been in the Air Force?

11 A. Since 2002.

12 Q. How about any of your siblings?

13 A. None of her siblings or my other children have served.

14 Q. Well, how about your siblings? Any of them serve?

15 A. My -- her uncles were both in the United States Army.

16 Q. Okay. Did you try to join?

17 A. I did try.

18 Q. Okay. And why did you not join?

19 A. I have a high-frequency hearing loss, and it was --

20 Q. Okay.

21 A. -- was not accepted.

22 Q. They turned you down?

23 A. Yeah.

24 Q. But you tried?

25 A. I did, sir.

1 Q. Okay. Have you ever heard Reality express any un- -- what
2 you thought to be unpatriotic thoughts?

3 A. Never.

4 Q. Have you ever had to get her out of any trouble with the
5 police?

6 A. Myself?

7 Q. Yeah?

8 A. No, sir.

9 Q. Have you ever suspected that she was engaged in any sort
10 of illegal activity?

11 A. Never.

12 Q. Okay. Do you own your home?

13 A. Yes, sir, we do.

14 Q. How much equity would you have in that home?

15 A. We have 20 acres of land that's paid for in Kleberg County
16 along with a house that sits upon it. We have -- you know,
17 whatever it's worth. And I don't really know what that's
18 worth, but it's a couple hundred thousand dollars.

19 Q. Did you -- did it take you a while to pay for your home?

20 A. Yes, sir.

21 Q. Is it paid for now?

22 A. It's paid for.

23 Q. Would you think you were taking any risk if you pledged
24 your home and that 20 acres --

25 A. Not at all.

1 Q. -- as bond for Reality so that she can have pretrial
2 release?

3 A. Yes -- no. I have no concerns about that.

4 Q. Okay.

5 A. I cosigned for her car, and she never missed a payment.

6 Q. Okay. would you have any doubt that she would engage in
7 any sort of criminal activity pending trial if the Court saw
8 fit to give her -- to allow her to be released pretrial?

9 A. I am confident that she would obey all the terms of her
10 release.

11 Q. Okay. If the Court wanted her to go to Texas so she was
12 close to family, would that be okay?

13 A. Yes, sir.

14 Q. If the Court wanted her to stay in the Southern District
15 of Georgia or in just the Augusta Division or in just the --
16 Richmond County, would that be okay?

17 A. Yes, sir.

18 Q. would you have any fear of her violating any of those
19 terms?

20 A. I would have no fear of her violating any of the terms of
21 her probation. I'd fear for her safety.

22 Q. Okay. Now, we've heard that she had guns in her house on
23 Battle Row.

24 A. Yes, she did.

25 Q. Okay. who gave her those guns?

1 A. I did.

2 Q. And what guns did you give her?

3 A. She had a Glock 19 pistol, a AR-15, and a 12-gauge
4 shotgun.

5 Q. Do you own other guns?

6 A. Yes, sir, I do.

7 Q. Do you consider yourself maybe even a fan of owning guns?

8 A. I enjoy the hobby, sir.

9 Q. Okay. Do you use them for hunting or for shooting or for
10 defense or what?

11 A. Purely recreation and defense.

12 Q. Okay. And whose idea was it for you to give Reality a
13 pistol to keep in her home?

14 A. I did.

15 Q. Okay. Have you trained Reality in how to use a gun
16 safely?

17 A. Yes, since she was a small child.

18 Q. Okay. Have y'all shot a lot together?

19 A. Yes, we have.

20 Q. Have you ever seen Reality ever use a gun in a -- in what
21 you deemed an improper or dangerous fashion?

22 A. No, sir, she has not.

23 Q. Have you ever seen her use a gun towards any person?

24 A. No.

25 Q. Have you ever used -- seen her -- Reality ever use a gun

1 to kill an animal?

2 A. No.

3 Q. You've trained her how to safely use a gun?

4 A. Yes, sir.

5 Q. And you wanted her to have that.

6 And why did you want her to have it here in Augusta,
7 Georgia?

8 A. As a young, single woman living alone and -- you know,
9 I wanted her to have every means possible to protect herself.

10 Q. Okay. Now, we've heard about an AR-15.

11 Do you know about that?

12 A. Yes, sir.

13 Q. Where did that come from?

14 A. I built it.

15 Q. Okay. And whose idea was it for you to provide it to
16 Reality?

17 A. It was my idea. It was a gift.

18 Q. Okay. And had she shot that gun with you?

19 A. Yes, sir.

20 Q. Had you trained her in the safe use of that gun?

21 A. Yes, sir, I have.

22 Q. How -- well, tell me: How do you view gun safety? Is
23 that something you take lightly?

24 A. No, sir. It's very serious.

25 Q. Okay. And do you think that Reality knew how to use that

1 AR-15 safely?

2 A. Yes, she did.

3 Q. And why did you want to give it to her?

4 A. One, she enjoyed it. She enjoyed having a -- shooting the
5 AR when she was in the military and trained on the use of it,
6 and she enjoyed shooting the long gun. We had talked about it,
7 and so I built it for her as a gift. I assembled it and put it
8 together and personalized it for her.

9 Q. Okay. And have you ever known her to use that AR-15 for
10 anything other than --

11 A. Punching holes in paper.

12 Q. -- target practice? What?

13 A. Punching holes in paper.

14 Q. Okay. Have you ever seen her aim that gun at anybody?

15 A. Only a paper target.

16 Q. Okay. Have you ever seen her use that gun to even kill an
17 animal such as a deer?

18 A. She's never engaged in any hunting --

19 Q. Okay.

20 A. -- in her life.

21 Q. Have you ever seen her casually or improperly use that --

22 A. No.

23 Q. -- rifle?

24 Now, we've heard about a 12-gauge shotgun.

25 Do you know about that?

1 A. Yes, sir. I bought it for her.

2 Q. Okay. And when did you buy it for Reality?

3 A. She was still in Maryland when I bought the 12-gauge
4 shotgun for her.

5 Q. Okay. And what -- could -- describe that 12-gauge
6 shotgun.

7 A. It's a Mossberg 88 pump, and I bought it for her for
8 self-protection.

9 Q. Uh-huh.

10 A. I believe it -- we all have the right to defend ourselves,
11 and the means to do that is important. And as a single woman
12 leaving -- living alone, you know, against home invasion or
13 something like that, she'd be vulnerable if she didn't have the
14 means to protect herself.

15 Q. Did you train Reality how to use that gun?

16 A. I did, sir.

17 Q. Have you watched her use it?

18 A. Yes, sir.

19 Q. Have you -- do you feel she knows how to use it safely?

20 A. Yes, sir.

21 Q. Have you ever seen her use it in a way that you thought
22 was not a safe way to use that 12-gauge pump Mossberg?

23 A. No, sir.

24 Q. Okay. Did you train her from a young girl how to safely
25 use a gun?

1 A. Yes, sir.

2 Q. Okay. Do you think that was part of your duty as a
3 stepfather?

4 A. It was part of my duty as her father.

5 Q. Okay. Did she introduce you to others as her father?

6 A. She has.

7 Q. Okay. Now, have you ever seen her use that shotgun to
8 kill any animal?

9 A. No, sir.

10 Q. Have you ever --

11 A. She doesn't hunt.

12 Q. Okay. Have you ever seen her point that gun at anyone?

13 A. No, sir.

14 Q. Do you think she knows what my daddy taught me before he
15 gave me my 20-gauge pump shotgun, never point that gun at
16 anything you don't intend to shoot?

17 A. That is what I taught her.

18 Q. Okay. Do you -- did you teach her what my daddy taught me
19 before I got my 20-gauge pump that had been his as a boy, treat
20 all guns as though they're loaded?

21 A. Yes, sir.

22 Q. Do you think she understood that?

23 A. She does.

24 Q. Now, do you think you were doing something that was
25 helping a potential criminal to commit future crimes when you

1 provided your daughter with the -- these guns we've talked
2 about?

3 A. No, sir.

4 Q. Have you ever had any fear that Reality would use these
5 guns that you provided to her and trained her in any improper
6 fashion?

7 A. No, sir, I have no fear of that.

8 Q. Okay. Have you ever -- would you have any fear, if she
9 were to get pretrial release, that she would attempt to use any
10 weapon in an improper fashion?

11 A. She would not violate the terms of her release, and I
12 would take possession of her firearms.

13 Q. Okay. And do you have a license to carry?

14 A. Yes, sir. I'm a licensed handgun carrier in the state of
15 Texas.

16 Q. And you think that's important for you?

17 A. I do.

18 Q. Has Reality ever sought a handgun carry license?

19 A. No, she has not.

20 Q. Okay. Did she also receive firearms training in the
21 United States Air Force?

22 A. Yes, she did.

23 Q. Okay. Do you think she was using that training in
24 preparation of future crimes?

25 A. No, sir. That's part of her duties as an airman.

1 Q. Okay. Has Reality maintained strong ties with you and
2 your wife, her mother?

3 A. Yes. She calls weekly, talks with her mother; and she
4 texts each of us frequently.

5 Q. Okay. Has Reality maintained strong ties with her sister?

6 A. Yes, sir.

7 Q. Okay. Now, where is her sister living now?

8 A. Her sister lives in Okemos, Michigan. She attends
9 Michigan State University.

10 Q. Okay. Do they, from time to time, visit with each other?

11 A. They were together at Christmas.

12 Q. Okay. And has Reality tried to maintain ties with her
13 godson?

14 A. Yes, sir.

15 Q. Okay. How old is he now?

16 A. I think Aries is 3.

17 Q. Okay. Does she seem to take that as an important
18 relationship?

19 A. Very important to her.

20 Q. Are you aware of any close friends and ties that she has
21 outside the bounds of the United States?

22 A. No. We have nobody outside of the United States.

23 Q. Are you aware of any financial resources she might have
24 outside the bounds of the United States?

25 A. Her wages from -- not outside the United States, no.

1 Q. Okay. Have you ever known Reality to get in a fist fight
2 with anyone?

3 A. She's never been arrested or been in any kind of physical
4 altercation --

5 Q. Have you ever known --

6 A. -- since she was a child --

7 Q. -- her to have one -- any --

8 A. -- not even childhood.

9 Q. Okay. Any physical alteration [sic]?

10 A. (No response.)

11 Q. Have you ever known her --

12 A. No, sir.

13 Q. Have you ever known her to steal anything from a store?

14 A. No, sir.

15 Q. Would you have any fear of any violence on her part should
16 the Court see fit to grant her her constitutional right to bond
17 pending trial?

18 A. I know in my heart that she would not do anything to
19 jeopardize that.

20 Q. Okay. Are you willing to bet your 20 acres and your home
21 that you spent all these years paying for and have now paid
22 for?

23 A. Everything in -- I own, I'll pledge.

24 Q. Okay. Without fear?

25 A. Without fear.

1 Q. Okay. what sort of athletic things does she do? we've
2 heard about yoga and spinning.

3 A. She's into weightlifting and CrossFit and running half
4 marathons. Yoga is her release in the way of finding inner
5 peace, and it really helped her focus on a lot of things.

6 Q. Uh-huh.

7 A. You know, in speaking with her, I mean, she believes in
8 yoga as a way to find peace and to spread -- and help other
9 people. In fact, in the jail, she's -- while she's been
10 detained this week, she's actually teaching other residents of
11 the jail how to do yoga and how to help them overcome some of
12 the things they are burdened with.

13 Q. Have you known her to try -- before being arrested, do
14 things to help other people? would that --

15 A. Yes, sir.

16 Q. what sort of things?

17 A. She's been active in a pet rescue here, Hands to Paws.
18 She fostered her dog, who had been abused and neglected, and
19 did wonderful work with the dog and was probably going to adopt
20 that dog prior to this happenstance.

21 Q. Uh-huh.

22 A. She's always given back to any community she has been --
23 when she was in Maryland, she was active with a program called
24 Athletes Serving Athletes where they would help disabled people
25 to run marathons and experience sporting events that they would

1 never be able to in any other way.

2 She's a wonderful girl who gives back and has given to our
3 nation, and she deserves a chance to prove it.

4 Q. Okay. Is there anything else you think you'd like to tell
5 the Court or the Court should know before they make their --

6 A. I just want to tell the Court, Your Honor, that my
7 daughter, she will do whatever she says she will do. If you
8 grant her clemency and allow her to be released on bail, she
9 will abide by all the tenets and all the terms of release, and
10 she will show up for any court date and be there.

11 MR. BELL: Thank you very much.

12 Your witness.

13 MS. SOLARI: Thank you, sir.

14 (No omissions)

15 CROSS-EXAMINATION

16 BY MS. SOLARI:

17 Q. Good afternoon, sir. I appreciate you being here. I'm
18 certain your daughter does as well, hearing you in support of
19 her. I won't keep you too terribly long, and I'm certainly not
20 going to talk to you much about guns. I've got no problem with
21 lawful gun ownership. And I've got friends that tell me it's a
22 whole lot of fun to build an AR-15, so --

23 A. They are.

24 Q. -- I've got no problem with that, yeah.

25 I just want to ask you a few questions. I think -- and

1 tell me if you recall this.

2 Did you speak with one of the FBI agents who interviewed
3 your daughter by phone shortly after her arrest or maybe even
4 before?

5 A. I did speak with Agent Taylor on the phone.

6 Q. Okay. And had you spoken with your daughter shortly
7 before that?

8 A. She called me on her phone and then put Agent Taylor on.

9 Q. Okay. So when she called you on her phone, did she
10 describe to you at all how the agents had treated her, the
11 circumstances of her interview?

12 A. It was very cryptic. She stated that she was in trouble
13 and that she was probably going to be arrested and detained and
14 that she -- at that time, she told me she was going to let me
15 speak with the FBI agent, and then Agent Taylor came on the
16 line.

17 Q. Okay.

18 A. He told me a little bit about her being arrested and that
19 he couldn't discuss the details because it was classified.

20 Q. Sure.

21 A. And then he allowed me to speak with my daughter shortly
22 after he got through. And I basically asked her if she was
23 okay.

24 Q. Uh-huh.

25 A. And she said, "I think so."

1 But I could tell that, you know, she was -- she was
2 scared, and she was strained.

3 Q. Did she tell you in that phone call that the agents were
4 actually very nice to her?

5 A. Honestly, ma'am, I can't recall. I --

6 Q. Do --

7 A. -- did not see -- you know, I -- honestly, I don't recall
8 that detail.

9 Q. Okay. Do you remember telling the agent you talked to
10 right after that -- actually thanking him for being so nice to
11 your daughter during their interaction?

12 A. Well, he was very cordial and very helpful, as much as he
13 could be, and, yes, I thanked him for that.

14 Q. Okay. You mentioned about switching SIM cards on a phone.
15 So is the case -- you said your daughter had broken her
16 phone over the Christmas holiday sometime?

17 A. Uh-huh.

18 Q. And you had a spare, I guess, that you gave her?

19 A. I had my old -- yeah. My wife and I had recently
20 upgraded, and I had -- she used my -- one of my old phones.

21 Q. So was it just a pretty easy process, pop out the SIM
22 card, put it in yours, boom, it works?

23 A. Yes.

24 Q. Okay.

25 A. That's -- it's not -- it's not hard at all.

1 Q. Okay. So you didn't have to go through some, like,
2 complicated unlocking process or switch --

3 A. No.

4 Q. -- provider? No.

5 So it wasn't something, then, that required any research
6 on your daughter's part?

7 A. No.

8 Q. Okay.

9 A. I mean, I have done it myself when I changed phones, when
10 I upgraded my phone.

11 Q. Pop it out, pop it in?

12 A. Pop the SIM card out, you know.

13 Q. Okay.

14 A. The only hiccup is if it takes a mini card or a -- the
15 standard-size card.

16 Q. But there wasn't any hiccups as far as transferring this
17 particular SIM card --

18 A. No --

19 Q. -- over?

20 A. -- there wasn't.

21 Q. Okay. So it wouldn't have required an entire page of
22 handwritten instructions, then, on how to go about doing that
23 sort of thing, unlocking the phone -- which wasn't necessary in
24 your case; right?

25 A. No, it wasn't necessary to do that.

1 Q. Okay. So it wouldn't require an entire page of
2 handwritten instructions about how to go about switching a
3 SIM card and dealing with passwords and locking codes and
4 things like that?

5 A. Not on my phones. The phones that I had, they were
6 unlocked already.

7 Q. Okay. Thank you.

8 I ask you this because I admit, you know, I watch the
9 news like other folks. I've seen you and your wife on a few
10 different news station talk shows kind of thing. I think I saw
11 you with Anderson Cooper the other day. And something -- I
12 think it was maybe your wife who mentioned it. It made sense
13 to me. And tell me if this is the case.

14 You and your wife were largely unaware of what your
15 daughter did in terms of her employment.

16 Is that fair to say?

17 A. She carried a top secret security clearance. She could
18 not discuss the details of what her job entailed.

19 Q. Right. So you really didn't know what it was --

20 A. And --

21 Q. -- for that reason?

22 A. You know, because my son is also a linguist in the
23 United States Air Force, I'm familiar with the rules that they
24 abide by. They can't discuss what they do.

25 Q. Absolutely. And so you understood that, so there --

1 A. Yes.

2 Q. -- wasn't a whole lot of work talk?

3 Okay. So you weren't necessarily sure -- or weren't privy
4 to what her projects were, what she dealt with on a daily basis
5 at work; correct?

6 A. That is correct.

7 Q. All right. And that's appropriate -- agreed? --

8 A. Yes.

9 Q. -- that she wouldn't tell you? Okay.

10 Now, I know you've told the Court -- and I understand
11 why -- that if your daughter were granted a bond, you are
12 confident she would not violate the terms of her bond, that you
13 know in your heart, you'd bet everything you own that she will
14 do whatever she says she'll do, and she will abide by all the
15 tenets of her release.

16 You would bet everything you've got on that; is that
17 right?

18 A. That is correct.

19 Q. Sir, I have to ask you: would you have bet everything you
20 had on your belief that your daughter would never violate her
21 oath to properly safeguard classified information?

22 A. Yes.

23 Q. You would have believed with all of your heart, based on
24 everything you knew about your daughter, she would not steal
25 classified information; correct?

1 A. That's correct.

2 Q. And that she would not purposely give it to someone who
3 had no reason to have that information and no clearance to have
4 that information; correct?

5 A. That's correct.

6 Q. So it's fair to say that you have been completely caught
7 off guard by the allegations in this case?

8 A. I am.

9 MS. SOLARI: May I have a moment, Your Honor?

10 THE COURT: You may.

11 MS. SOLARI: Thank you, sir. I know this is a
12 difficult time for you, and I do appreciate you being here.

13 THE COURT: Any redirect?

14 MR. BELL: Just a bit.

15 REDIRECT EXAMINATION

16 BY MR. BELL:

17 Q. Are you aware of Reality buying phones -- replacement cell
18 phones on Amazon?

19 A. Oh, yes, yes.

20 Q. Okay. And you're aware that sometimes, when you get a
21 phone, it might have been locked by the previous owner and they
22 didn't give you the password?

23 A. Yes.

24 Q. And you're aware that then if you're going -- having
25 bought that phone, if you're going to use it, you've got to

- 1 figure out how to unlock the phone?
- 2 A. That is correct.
- 3 Q. You've heard that -- other people doing it?
- 4 A. Yes.
- 5 Q. Anything illegal, criminal, or suspicious about that?
- 6 A. No, there's nothing illegal or --
- 7 Q. Okay.
- 8 A. And to have a page of written instructions is very much
- 9 like Reality, write everything down.
- 10 Q. Yeah. Is she thorough?
- 11 A. Very thorough.
- 12 Q. Okay. Did she ever disclose anything about her work that
- 13 you thought might be -- she ought to not be telling you?
- 14 A. She never discussed any details of what she did.
- 15 Q. Okay. Are you -- with your other kids or Reality or other
- 16 contact with young people, are you aware of them knowing a
- 17 whole lot more about computers than you and I know about them?
- 18 A. (Indiscernible.) A whole lot more.
- 19 Q. And you're aware of them getting apps and programs and all
- 20 sorts of things and staying on them for hours?
- 21 A. Yes, sir.
- 22 Q. Okay.
- 23 A. It's what young people do. I mean, that's --
- 24 Q. Okay.
- 25 A. That's the world they grew up in.

1 Q. Do you find that suspicious of future criminal activity?

2 A. Not in the least.

3 Q. Okay.

4 A. My daughter's a good person.

5 Q. And having heard all these things and seen the accusation,
6 read the paper, read the press release, read what the
7 Government's been saying about her, having heard from the FBI
8 agents, any fear of putting up your farm and your land and your
9 house to secure her pretrial release?

10 A. Not in the least.

11 MR. BELL: Thank you, sir.

12 THE COURT: Any --

13 MS. SOLARI: Nothing further, Your Honor.

14 THE COURT: All right. Well, Mr. Davis, I'm going to
15 tell you the same thing I told your wife. I think y'all are
16 exemplary in terms of parents and the love and care you have
17 for your child. I appreciate that. And I certainly appreciate
18 you taking the time and the expense to travel from Texas here
19 to support your daughter. So thank you for your time and
20 testimony. You may step down.

21 Any reason this witness can't be excused, Ms. Solari?

22 THE WITNESS: Thank you, Your Honor.

23 MS. SOLARI: No, sir, Your Honor.

24 THE COURT: Any from the Defense, Mr. Nichols or
25 Mr. Bell?

1 MR. BELL: No, Your Honor.

2 THE COURT: All right. Thank you for your testimony.
3 You may remain in the courtroom if you like. You're excused
4 otherwise.

5 MR. BELL: Rejoin your wife, sir. Thank you.

6 And, Your Honor, we would call Ann Demasi, who is
7 out there. We think she'll be right short, if the Court cares
8 about that.

9 THE COURT: I don't care about it. I'm here -- I get
10 paid to be here as long as I need to be, so . . .

11 MR. NICHOLS: Thank you, Your Honor. There's no
12 adverse implication.

13 (Pause in proceedings from 5:22 p.m. to 5:25 p.m.)

14 (The witness, Ann P. Demasi, was sworn.)

15 COURT CLERK: Please state your name for the record.
16 Spell your last name.

17 THE WITNESS: Ann Demasi, D-e-m-a-s-i.

18 ANN P. DEMASI,

19 having been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. BELL:

22 Q. Ms. Demasi, could you tell us your full name, please, and
23 where you live.

24 A. Yes. My name is Ann P. Demasi, and I live in Grovetown,
25 Georgia.

1 Q. And what do you do for a living?

2 A. Currently, I am unemployed, but I am in school.

3 Q. Okay. Where are you in school?

4 A. With Columbia College. It's an online course.

5 Q. Okay. And what are you studying?

6 A. Psychology.

7 Q. Is this Columbia College out of Columbia, South Carolina?

8 A. No. It's Columbia College out of Columbia, Missouri.

9 Q. Okay. And are you from around here?

10 A. I'm sorry?

11 Q. Are you from around here?

12 A. No, sir. I'm from Upstate New York.

13 Q. Okay. What city upstate?

14 A. Watertown.

15 Q. Okay. And what have -- what led you from Watertown to
16 Grovetown?

17 A. My husband is in the Air Force.

18 Q. Okay. And have you been in the Air Force?

19 A. No, sir.

20 Q. Okay. Have you -- do you know Reality Winner?

21 A. Yes, sir.

22 Q. And how long have you known her?

23 A. About 6 years. I believe it was March of 2011 when we
24 met.

25 Q. Okay. And what were you -- how did you come to meet her?

1 A. We were both in California because my husband was
2 stationed in California on the same base that she was.

3 Q. Okay. So he was in the Air Force; she was in the
4 Air Force?

5 A. Uh-huh.

6 Q. I misunderstood. I was thinking you were the one in the
7 Air Force.

8 A. No, sir.

9 Q. Okay. And what was your husband doing in the Air Force?

10 A. He was studying a language.

11 Q. Okay. And what languages does he speak?

12 A. I'm sorry. I don't know.

13 Q. Do you know what countries there would be people who speak
14 those?

15 A. I believe it's Farsi, but I'm not positive.

16 Q. Okay. And how long -- how well did you get to know
17 Reality when you were in California?

18 A. I would say fairly well. We would see each other maybe
19 every weekend. There were a couple weekends during there where
20 we didn't see each other, but it was probably every weekend for
21 about a year, year and a half.

22 Q. She got to be a good buddy of yours?

23 A. Absolutely.

24 Q. And your husband was doing -- was working with her in the
25 Air Force?

1 A. Yes.

2 Q. Okay. And how did you end up at -- when did he come to
3 Augusta or Fort Gordon?

4 A. We both were stationed here -- or -- I'm sorry -- he was
5 stationed here, and, of course, I came with him in October of
6 2012.

7 Q. And was Reality still -- did she come to be stationed here
8 also at that time?

9 A. No, no. She was in Maryland at the time.

10 Q. Okay. And it was after she got out of the Air Force that
11 you reunited?

12 A. Yes, with a brief --

13 Q. If I've got that wrong, you straighten me out. Okay?

14 A. Okay. It was -- there was a brief temporary assignment
15 that she had down here, but it was after that she permanently
16 came down to Augusta.

17 Q. Okay. Now, your husband is in the Air Force, and he
18 speaks a Mid Eastern language?

19 A. Yes, sir.

20 Q. Does that, to you, indicate he might want to run away from
21 the country?

22 A. No. No, not at all.

23 Q. Is he a loyal and patriotic American?

24 A. Absolutely.

25 Q. Okay.

1 A. It's hard for me to even get him out of the country on
2 vacations, so . . .

3 Q. Okay. Now, are you aware that Reality speaks some foreign
4 languages?

5 A. Yes.

6 Q. Has that ever raised any suspicions in you that she
7 might want to run away to some land where people speak those
8 languages?

9 A. No, absolutely not.

10 Q. Okay. Now, tell us about reuniting with Reality after you
11 came to the Augusta area with your husband.

12 A. It was wonderful. It was great to see her. We -- you
13 know, I took some of her yoga classes, and it's been a lot --
14 it's been great having her here.

15 Q. Okay. How long has it been since you reunited with you in
16 Grovetown and she in Augusta?

17 A. Let's see. I think it's been -- I think it's been maybe
18 between 3 to 4 years. We'd travel up to Maryland every once in
19 a while to see some other friends that were stationed up there,
20 and we'd get together with her up there as well. But, you
21 know, any kind of length of time or reuniting was really here,
22 so --

23 Q. Okay.

24 A. -- about 3 years.

25 Q. And since she's been here, how often would you see

1 Reality?

2 A. Not as often as we'd like to. It's -- you know, between
3 our schedules and hers, we've all been really busy. I'd say
4 maybe once every couple of months.

5 Q. Uh-huh. And you said you took a course.

6 was that the yoga teaching or the spinning or what?

7 A. That was the yoga. well, actually, no. I did take her
8 spinning classes as well.

9 Q. Okay.

10 A. I forgot about that.

11 Q. How is she as a teacher?

12 A. Awesome, awesome. Her two classes are very, very
13 different from each other. She's -- you know, she's very
14 intense with her spinning classes, but her yoga classes are all
15 about, you know, peace and tranquility, so . . .

16 Q. Okay. Have you learned from her?

17 A. Absolutely.

18 Q. Okay. Is -- have you ever seen any violent tendencies
19 exhibited in her personality?

20 A. No, absolutely not.

21 Q. Okay. Have you never [sic] known Reality to do anything
22 that would cross the line legally?

23 A. No. No, absolutely not.

24 Q. Have you ever known her to engage in "shark" conduct, a
25 desire to cheat anyone?

1 A. No. No, never.

2 Q. Okay. Has she -- is she somebody you'd trust?

3 A. 100 percent.

4 Q. Okay. Ever see her do anything that would cause you to
5 doubt her trust?

6 A. No.

7 Q. Have you ever known her to do something that would be
8 lying to you?

9 A. No.

10 Q. Have you ever known her to express any unpatriotic
11 thoughts?

12 A. No, sir.

13 Q. Have you ever known her to express any desire to take up
14 arms against the United States?

15 A. Never.

16 Q. Have you ever heard her discuss her desire to go and live
17 with the Taliban or ISIS or Al-Qaeda or some organization
18 adverse to the interest of people allied to the United States?

19 A. Never, no.

20 Q. Have you ever known her to hang out with what you might
21 consider disreputable people?

22 A. No, sir.

23 Q. Have you ever known her to hang out with people of
24 Mid Eastern descent?

25 A. No, sir.

1 Q. Have you ever known her to hang out with or talk about
2 liking people of disreputable character?

3 A. No.

4 Q. Have you ever heard her praise the exploits of
5 Osama bin Laden?

6 A. No, never.

7 Q. Have you ever heard her praise the endeavors of -- let me
8 see. It's -- and I may get it wrong -- Mohammad -- the guy who
9 succeeded --

10 A. No.

11 Q. -- one of those things?

12 A. No, never.

13 Q. Have you ever heard her talk about -- express any praise
14 for the leadership of Al-Qaeda or the things they did?

15 A. No.

16 Q. When there have been terrorist acts in the Mid East, have
17 you ever heard her talk about "wasn't that great how they
18 bombed that church or that mosque?"

19 A. No, never.

20 Q. Have you ever heard her praise or show any sympathy with
21 folks who blew up the Trade towers?

22 A. No.

23 Q. Have you heard -- ever heard Reality express any sympathy
24 or alliance with whoever it was that put off those bombs at the
25 end of the Boston Marathon?

1 A. No.

2 Q. Have you ever heard Reality express any desire to engage
3 in terrorist activity?

4 A. Not ever.

5 Q. Okay. Who would you think Reality's best friend in the
6 Augusta area is?

7 A. I mean, other than her pets, I'm not really sure as far as
8 people are concerned. Like I said, we hadn't really seen each
9 other a lot, you know, since she moved down here, but -- I
10 mean, we're pretty close, but, you know, I can't -- I can't
11 stand to -- I can't say.

12 Q. And how many years is it you've known her?

13 A. 6 years --

14 Q. Okay.

15 A. -- about 6 and a half.

16 Q. Do you think you know her inside and out?

17 A. I would say I know her fairly well, yes.

18 Q. Okay. Were the Court to see fit to grant her her
19 constitutional right of bond pending trial, pretrial release,
20 do you think that there would be any risk that she would engage
21 in criminal activity?

22 A. Absolutely not.

23 Q. Do you think there's any risk that she'd engage in any
24 questionable activity?

25 A. No.

1 Q. Do you think there's any danger that she would cut all
2 family ties and all friendship ties and seek to flee to a
3 foreign land from which she could not be returned?

4 A. No, I definitely don't.

5 Q. Okay. Do you think she has the courage to face whatever
6 this Court deems fit, given the charges that have been brought
7 against her?

8 A. Absolutely.

9 Q. Okay. Have you ever seen in her a personality trait of
10 instability such that she would blow up or act irrationally?

11 A. No, never.

12 Q. Have you ever seen in Reality any signs of a person who
13 cannot, though they may wish to do so, conform her behavior to
14 the commands of society?

15 A. I'm sorry. Can you repeat that question?

16 Q. Let me redo that thing. That was a little . . .

17 Is she -- have you ever seen her guilty of impulses that
18 she couldn't control?

19 A. No.

20 Q. Okay. How is she towards her animals?

21 A. How is she towards her animals? Extremely loving, very
22 loving. And mine as well.

23 Q. Okay. And what do you have?

24 A. I have a dog.

25 Q. what kind of dog?

1 A. We think he's a dachshund-lab. He's very goofy looking.

2 Q. We have a mixed one, too.

3 Have you ever worked with Reality on any computers?

4 A. No.

5 Q. Do you know whether or not she's learned in computer
6 science?

7 A. I really don't know, I mean, other than, you know,
8 basic -- our age group kind of thing. I don't -- I'm not sure
9 as to the extent of her knowledge.

10 Q. Do you know her to be an intelligent person?

11 A. Absolutely.

12 Q. Have you ever known her to be a gossip who shared with
13 you things that went on at work that you were kind of like, "I
14 don't know whether she ought to be saying that"?

15 A. No. No, not ever. Most of the time, we talk about yoga.

16 Q. Okay. And how about your husband? Does he ever share
17 with you what he --

18 A. No.

19 Q. -- learns at work?

20 A. No, never.

21 Q. They do about the same thing, don't they --

22 A. I really --

23 Q. -- or did?

24 A. -- don't know. Yeah.

25 MR. BELL: Okay. Thank you.

1 Your witness.

2 CROSS-EXAMINATION

3 BY MS. SOLARI:

4 Q. So is your -- your husband's still on active duty with the
5 Air Force?

6 A. Yes.

7 Q. Okay. And he is, as far as you know, a Farsi linguist?

8 A. Yes.

9 Q. So judging from your statement about the fact that he
10 really can't tell you anything about work, I assume he holds
11 some level of security clearance?

12 A. I assume so, yes.

13 Q. Okay. Does your husband ever use burner phones, if you
14 know what those are? Those are phones that you really don't
15 register under your true name. You might buy them at Walmart,
16 set them up. When you're done, you throw them away.

17 A. Yeah. I -- no, not -- never.

18 Q. Have you ever known him to send e-mails that
19 self-destruct?

20 A. No.

21 Q. Okay. Has the defendant ever used any means like that to
22 contact you?

23 A. No.

24 Q. Does your husband spend time, as far as you know, browsing
25 the Dark Web --

1 A. No.

2 Q. -- where you would find WikiLeaks and things like that?

3 A. Never.

4 Q. Has the defendant ever discussed with you her having done
5 that?

6 A. No.

7 Q. Has she ever made -- the defendant, I mean -- made
8 statements to you about wanting to go to Pakistan or
9 Afghanistan?

10 A. No.

11 Q. Has she ever discussed with you any desire to go there to
12 meet with leaders of the Taliban?

13 A. No.

14 Q. I assume, then, you've never read the defendant's personal
15 journals; is that true?

16 A. No.

17 Q. That's true, you have not?

18 A. I'm sorry. No, I have not read her personal journals.

19 Q. All right. Since your husband, as far as you know, holds
20 a security clearance and obviously takes that quite seriously,
21 would you ever think he would steal classified information?

22 A. No, not ever.

23 Q. Do you think he would ever give it away to somebody who
24 had no clearance to possess it?

25 A. No.

1 Q. Do you think he'd ever send it to a media outlet or
2 anything like that?

3 A. No.

4 Q. In your time knowing the defendant, did you ever suspect
5 that she might do anything like that?

6 A. No.

7 Q. And, in fact, you said you've never known her to succumb
8 to any impulse that she couldn't control?

9 A. That's correct.

10 Q. So in your experience with her, her behavior is very
11 thoughtful, very deliberate, very intentional?

12 A. Absolutely.

13 MS. SOLARI: One moment, Your Honor.

14 Thank you. That's all I have for the witness.

15 THE COURT: All right. Mr. Bell?

16 REDIRECT EXAMINATION

17 BY MR. BELL:

18 Q. You were asked about notes.

19 what sort of sense of humor has Reality got?

20 A. I would say she has a very dry sense of humor.

21 Q. Uh-huh. Does she say things kiddingly that you perhaps
22 shouldn't take literally?

23 A. I would say so. I think, definitely, she's very sarcastic
24 and dry sense of humor, so . . .

25 Q. Have you known her to ever use hyperbole?

1 A. Absolutely, yeah.

2 Q. And have you known her to use symbolic language that
3 perhaps shouldn't be taken literally?

4 A. Yes, definitely.

5 Q. Do you ever do that?

6 A. Absolutely, yeah.

7 Q. Okay. And she might write something down humorously that
8 she didn't mean, in fact, literally?

9 A. That's correct, yeah.

10 Q. Okay. Do you see anything wrong in that?

11 A. Not at all.

12 MR. BELL: Okay. Thank you.

13 THE COURT: Ms. Solari?

14 MS. SOLARI: Nothing, Your Honor.

15 THE COURT: Ms. Demasi, thank you very much for being
16 here today and testifying on behalf of your friend. I really
17 appreciate your time.

18 If you'd like to remain, you're more than welcome
19 to take a seat in the courtroom for the remainder of the
20 proceedings. Or if you'd like to leave, you're free to do that
21 as well.

22 THE WITNESS: Thank you.

23 THE COURT: Thank you.

24 Does that conclude the Defense's witnesses?

25 MR. NICHOLS: Yes, Your Honor. Defense has no

1 further witnesses.

2 THE COURT: Any factual proffers?

3 MR. NICHOLS: No, Your Honor. We're prepared for our
4 closing.

5 THE COURT: All right. Ms. Solari, let's begin with
6 any closing remarks you'd like to make.

7 MS. SOLARI: Thank you, Your Honor.

8 Your Honor, of course, since these are the primary
9 elements for the Court's consideration in determining whether
10 to grant the defendant a bond, I'd like to go through some of
11 the things set forth in 18 U.S.C. Section 3142.

12 I'd like to start with 3142(g)(1), the nature and
13 circumstances of the charged offense. In this case,
14 Your Honor, the defendant's position of trust and her security
15 clearance were the very means by which she committed the crime.
16 The defendant used her TS/SCI clearance and position of trust
17 to intentionally seek out, to access, and to print a highly
18 sensitive document that was unrelated in any way to her work
19 duties and her assignments.

20 The U.S. Government had already determined evidence,
21 by its markings regarding the classification, that disclosing
22 the document would cause exceptionally grave damage to the
23 national security. But the defendant decided her personal
24 desire to see that information published mattered more than
25 that risk and more than her oath to protect classified

1 information.

2 with the intent to disclose the information to the
3 media, she snuck the document out of the secure building, and
4 she kept it in an unsecure place, in her car, for a couple of
5 days.

6 After a couple of days to think this over, to make
7 that very deliberate, very thoughtful decision to take another
8 action, and with the intent that the document and its contents
9 be published, the defendant then mailed it to a news agency
10 that she knew had absolutely no authority to have that
11 information.

12 She took every one of those deliberate and calculated
13 steps with the full knowledge that disclosure of the TS/SCI
14 document reasonably could be expected to cause exceptionally
15 grave damage to the U.S. national security and it could assist
16 our foreign adversaries.

17 The offense, as the Court knows, carries a maximum
18 term of imprisonment of 10 years. We're not ruling out a
19 superseding indictment adding more charges as we continue
20 through our review of the information we've collected, and I
21 submit to the Court, Your Honor, that's certainly an incentive
22 to flee if one has the ability to do it.

23 Regarding the weight of the evidence against the
24 defendant, 3142(g)(2), the evidence of the defendant's guilt,
25 Your Honor, was extremely strong even before she added to it by

1 providing a confession. As far as we know at this point, the
2 defendant was one of only six people in her agency to access
3 that document and print it. She was the only person in her
4 agency who both printed the document and corresponded by e-mail
5 with the news agency at issue. And she's the only person in
6 the world, as far as we know, who printed the document,
7 corresponded with a news agency, and lived in Augusta, Georgia,
8 from which it was mailed. In addition to the screenshot of the
9 news agency's mailing address the defendant told us we would
10 find on her phone, I'd say that evidence of guilt is already
11 overwhelming.

12 But there's more because the defendant did confess.
13 She confessed to seeking out certain national defense
14 information, to retaining it, transmitting it, all with the
15 reason to believe it would harm the U.S. and aid foreign
16 nations.

17 Now, defense counsel, I don't know if he intends to
18 address the elements in his argument, but he's made some
19 statements publicly on television and in news articles claiming
20 that the Government cannot succeed in this case because we
21 cannot prove that the defendant's actions, in fact, caused any
22 harm to the U.S. national security or, in fact, aided one of
23 its adversaries.

24 But, in fact, Your Honor, the Government doesn't have
25 to prove that "reason to believe" language that is found in

1 793 to convict the defendant of the current charge. All the
2 Government has to prove to convict the defendant of an alleged
3 violation of 793(e) is that she had unauthorized possession
4 of a document relating to the national defense and that she
5 willfully transmitted the document to someone who wasn't
6 entitled to receive it or that she willfully retained the
7 document, such as in her car for 2 days, and failed to give it
8 to a person entitled to receive it. And, Your Honor, we can
9 prove that quite easily.

10 with regard to history and characteristics of this
11 defendant, 3142(g)(3), the defendant's character -- we have
12 heard from several character witnesses, and we know from the
13 defendant's service record that she did serve in the Air Force
14 for a significant period of time and maintained a top security
15 SCI clearance.

16 But, Your Honor, I submit that where she has used
17 that prior service and that trust as a means to commit the
18 crime, that should not work strongly in her favor. She used
19 her position, which was granted to her because of her
20 background, to promote her own personal agenda.

21 I submit that, Your Honor, also reflecting on her
22 character is the information we found more recently,
23 particularly in her jail calls. This defendant has shown her
24 intent and her plan to manipulate this Court by playing a cute
25 white girl with her cute little braids and perhaps shedding

1 some tears, by instructing her mother to move \$30,000 out of
2 her personal bank account when she learned that the Court would
3 not find her qualified for appointed counsel because she had
4 that money in her account. And she's also declared her intent
5 to wage war in the media if she doesn't get her way today.
6 That's the defendant's character.

7 As for her family ties, Your Honor, which is also
8 pertinent under 3142(g)(3), the defendant certainly appears to
9 come from some very nice parents who had little, if any, idea
10 specifically what she did for a living, how she felt about it,
11 or why she would steal and disclose classified information.
12 I understand they live in Texas, which is obviously a border
13 state, from which she's already traveled to Mexico several
14 times when she was younger.

15 As for her employment, Your Honor, at this point, I
16 don't think the defendant has been officially fired from her
17 job, although she's been placed on administrative leave pending
18 that determination. Her future employment prospects in the
19 Government are certainly bleak. And other than in academia,
20 there probably isn't a whole lot of call in the U.S. for a
21 Farsi, Darcy, Pashto speaker. She's able to teach yoga
22 classes, but I submit that would hardly be a compelling reason
23 for her to remain here or to return to the Southern District of
24 Georgia.

25 The defendant's financial resources. We know she

1 has at her disposal between 30- and \$35,000 despite whether her
2 mother may have moved those funds. The rest of her financial
3 resources, Your Honor, I submit are unknown because we have
4 seen that sympathizers across the nation have begun donating
5 money for her benefit. I think that's something significant to
6 think about when we think about whether she would have the
7 means to flee the district or perhaps the country.

8 The length of the defendant's residence here and her
9 community ties. She moved here to the Southern District of
10 Georgia very recently, early 2017. She appears to have no ties
11 here other than a casual acquaintance and a rented house and a
12 job that she won't have much longer. So other than this case,
13 which might award her 10 years in prison, there's really no
14 reason for her to stay or to come back.

15 The defendant's past conduct. And this pertains to
16 more than just a defendant's criminal history. It pertains to
17 all of her prior conduct that indicates a propensity to flee or
18 a likelihood that she'll present a danger to the community if
19 she's released.

20 This was not the first time the defendant mishandled
21 classified information. She's admitted as much, although I
22 think it's important to note she was not entirely honest with
23 the agents about it. She's also admitted the charged conduct
24 was not, as her friend actually described, a rash decision or
25 a spur-of-the-moment reaction. In keeping with what we're told

1 her personality is, it was thoughtful, and it was deliberate.

2 The defendant has expressed in her conversations
3 with Probation and with the FBI and in her handwritten notes
4 a strong and persistent desire to travel to the Middle East,
5 particularly Afghanistan. She has written that she wants to
6 travel to Pakistan, too, purportedly to meet with leaders of
7 the Taliban.

8 Your Honor, I'd like to make clear that the
9 Government is in no way suggesting this defendant wishes to
10 become a jihadist or that she is a Taliban sympathizer. We
11 simply think it's worthy of note that she seems to have a
12 pressing desire to travel to Pakistan to meet with people of
13 note.

14 She says she wants to burn the white House down and
15 then go live in Kurdistan or in Nepal. She's recently searched
16 for travel from Atlanta to Tel Aviv, Israel.

17 She had four phones, two laptops, and one tablet.
18 That's certainly not criminal, but it's certainly something of
19 interest.

20 Given what this defendant has seen in her 6-plus
21 years of top secret access and the information agents found
22 about switching SIM cards and using untraceable phone and
23 e-mail communications, that's frightening not only because it
24 might enable her to disappear quickly and without a trace but
25 because it would also enable her to continue disclosing

1 classified U.S. information.

2 she'll no doubt be a target at this point,
3 Your Honor, for publications that would like to seek out and
4 obtain leaked information. And what's perhaps more dangerous
5 is she will undoubtedly be a target of recruitment by our
6 adversaries. She's out of a job. She's facing significant
7 jail time. She's under emotional distress. We know,
8 historically, that these are all things that make people with
9 valuable information prime targets.

10 And there's the handwritten notes about how to
11 download and use Tor in its more secure format, which would
12 allow the defendant to hide her identity and location while
13 accessing the notorious Dark Web. For what purposes, we don't
14 know. But I do know that you can buy a fake I.D., a passport,
15 or just about whatever you want on the Dark Web, and she would
16 leave virtually no trace.

17 That, Your Honor, is not humor. It is not joking.
18 I certainly understand dry humor and sarcasm and things said
19 in passing that may be taken out of context. That's not what
20 we have here. Instead, I submit to Your Honor that we have a
21 defendant with maybe a fractured life or a fractured
22 personality.

23 I think her acquaintances and her family know one
24 side of her, the side that teaches yoga and loves dogs and is
25 nice to be around. But as they've admitted, they have no

1 insight into her work life, into her interest as it pertains to
2 travel to the Middle East. And they certainly had no idea of
3 these notations that she was making in her notebook that would
4 enable her to have entirely clandestine communications with
5 persons we might never be able to identify.

6 She's traveled to Mexico multiple times. And after
7 she printed the classified documents, she took a trip to Belize
8 by herself for only 3 days, including travel, a Saturday, a
9 Sunday, and a Monday. Nothing criminal about that, Your Honor,
10 but it seems odd to spend the kind of money necessary for a
11 trip all the way to Central America, to go alone, and then to
12 come right back after such a short period of time with very
13 little idea what she did there. And she claims that she met
14 with no one.

15 She wants to be in Mexico in the spring, Afghanistan
16 in the summer, Asia and Jordan in between. It seems,
17 Your Honor, she wants to be anywhere but in the United States.

18 Now, I know another part of this -- subpart of the
19 statute asks whether the defendant was under some sort of
20 supervision, probation, or parole at the time the alleged
21 violation was committed. Certainly not. This defendant has
22 no criminal history of any significance.

23 But, to me, it seems very similar to being a TS/SCI
24 contractor with access to the country's most sensitive national
25 defense information. Like somebody on supervision, this

1 defendant agreed to be held to a very high and a very strict
2 set of standards. And she didn't just fail. She didn't simply
3 fall short. She deliberately violated those standards in a way
4 very harmful to our national security interests.

5 Now, as far as a danger she may present to the
6 community if released, I know the rules are written in such a
7 way that it seems to foresee a physical danger, that she might
8 go out and strangle someone or punch them or run them over with
9 a car. I don't think that's what we have here.

10 I think there was a bit of an undue focus on the
11 firearms found in her home. That was not our primary concern.
12 The Government is far more concerned with the indications of
13 covert communications setups and a pressing and persistent
14 desire to leave the United States.

15 But with regard to the danger she would present to
16 the community and to the nation, Your Honor, if released, in
17 the Air Force and as a contractor, the defendant had routine
18 access to some of the nation's most protected secrets for more
19 than 6 years. We know one of the TS/SCI documents was the one
20 she admitted to stealing and transmitting. And she only
21 admitted to that, Your Honor, when directly confronted with the
22 evidence.

23 We don't know how much more she knows and how much
24 more she remembers, but we know she is extremely intelligent,
25 so we would have to imagine she's got quite a bit of very

1 valuable information in her head. We also don't know how much
2 information she might have taken in physical form when she
3 inserted that USB device into a top secret computer when she
4 was still on active duty with the Air Force.

5 We are also concerned the defendant may have taken
6 additional documents from her most recent employer and from
7 that physical facility because, in the jail call to her mother,
8 she refers to documents in the plural where we have only
9 identified and she has only admitted to the wrongful taking and
10 dissemination of one document.

11 Information is only classified, Your Honor, if the
12 classifying official can articulate a specific level of harm
13 that unauthorized disclosure would cause. For example,
14 information can only be classified top secret if, as you've
15 heard, its unauthorized disclosure reasonably could be expected
16 to cause exceptionally grave damage to our national security.

17 While we don't know precisely what harm the defendant
18 could cause to the public and because we cannot disclose in an
19 unclassified forum the information we believe she knows, we
20 certainly submit to the Court that she could cause damage to
21 the public by making further unauthorized disclosures. That
22 risk is unquestionably present.

23 So, again, Your Honor, all the defense witness
24 testimony has established is that this defendant has a separate
25 life. She has two faces, so to speak. There is one that is

1 nice, that is cordial, that is pleasant, that is kind; and
2 there is another that seems motivated by what in particular, I
3 don't know. To harm the Government by stealing and disclosing
4 its most important secrets? To perhaps harm the Government in
5 other ways? I don't know how to take that statement, "I want
6 to burn the white House down and then go live in Kurdistan,"
7 but it's disconcerting at the least. And, again, someone who
8 uses clandestine communications and just wants to travel
9 anywhere but here, particularly in the Middle East . . .

10 For all those reasons, Your Honor, the Government
11 respectfully requests that this defendant be detained pending
12 trial.

13 THE COURT: Thank you, Ms. Solari.

14 MS. SOLARI: Thank you, Your Honor.

15 THE COURT: Mr. Nichols? Mr. Bell?

16 MR. NICHOLS: May it please the Court. "Downright
17 frightening," that's the phrase the Government used to describe
18 my client and why she should be denied pretrial release. As a
19 former prosecutor, I have prosecuted murderers, rapists, child
20 molesters, killers, all types of bad people. That is downright
21 frightening. Simply plugging a flash drive into a computer is
22 not downright frightening. Doodling your name in a notebook is
23 not downright frightening.

24 The Government has made insinuations that somehow my
25 client wishes to travel to Kurdistan to join the Taliban; that

1 because she has this information, she is at a risk of
2 committing new offense.

3 The case law that we want to direct the Court's
4 attention to is *U.S. v. Al-Arian*. That is 280 F. Supp. 2d 1345
5 (2003). In that case, the Court laid out in regards to
6 pretrial release from confinement.

7 The specific factors the Court should look at is,
8 number one, the nature and circumstance of the crime charged
9 and particularly whether the offense is a crime of violence.
10 Here, there's absolutely no question this is not a crime of
11 violence, and our client has absolutely no history of violence.

12 Two, the weight and evidence against the person. We
13 haven't received any evidence. In fact, the Government went
14 through a long litany explaining that they have no idea when
15 they'll be able to release the evidence. All they have is what
16 they found when my client was interrogated by 10 law
17 enforcement officers who were armed in her home.

18 Three, history and characteristics of the person. We
19 heard considerable testimony from her mother, her stepfather,
20 and her friend as to the type of person she is, not just what
21 they think about her, but what they've known from knowing her
22 for over 25 years, the fact that she was a straight-A student
23 in school, the fact that she trained herself to speak a foreign
24 language before volunteering to join the military, the fact
25 that she served in the military for 6 years and never received

1 any problems, the fact that she was granted an honorable
2 discharge from her service to this country and that when she
3 came to Augusta, a city that she's not from, she became a part
4 of this community both by serving as a gym instructor, by doing
5 yoga, by getting a second job in addition to the job that she
6 had when this offense supposedly took place.

7 Four, the nature and seriousness of the danger to any
8 person or the community that would be posed by the person's
9 release. The Government has not provided any evidence that
10 she's a threat to anybody. In fact, the most serious thing
11 they've said is the fact that she described herself as a
12 pretty, blonde white girl. That's not evidence of being a
13 threat to the community.

14 The fact that she has guns, the Government has even
15 said themselves that they don't believe that's a big issue. So
16 why even bring it up?

17 Their argument is that because she had a cell phone
18 in which she swapped out the SIM card, that must mean she has
19 some clandestine ulterior motive.

20 Your Honor, cell phones break, SIM cards break. You
21 can swap out a SIM card as easily as just opening the back of
22 the phone and putting a new one in. That's why, if you go to
23 an AT&T cell phone store or any cell phone store and ask for a
24 new SIM card, they give you a new one.

25 It's not a violation of national security to give

1 someone a small piece of plastic so their phone will work. We
2 also heard testimony from her stepfather, the fact that her
3 phone broke on Christmas and she had to swap out a different
4 SIM card. The Government's argument is that because my client
5 is a millennial and that she knows how to use technology,
6 that's proof that she has some type of evil intent and that she
7 is going to cause injury to this country or somehow help a
8 foreign government.

9 They've made several references to Tor, but they
10 never said what she did with Tor because they have no idea.
11 And they definitely don't have any evidence of her doing
12 anything wrong. Google Chrome has a feature called incognito
13 mode. That's legal. There's no crime to use that. Using Tor,
14 if there was a crime, the Government would have charged her for
15 using Cor for some -- Tor for some illegal purpose.

16 The Government is scraping and clawing to build a
17 mountain out of a molehill because they have no evidence that
18 my client is a threat to the community or a risk of flight.

19 They made several mentions to her traveling to
20 Belize, and they said, "well, we have no idea what she did
21 there."

22 I find that very interesting that they can't go on to
23 her Instagram and see all the photos she took while she was in
24 Belize but they can go on Twitter and pull a quote from
25 Julian Assange, who has absolutely nothing to do with this case

1 and has absolutely nothing to do with my client.

2 As far as the GoFundMe account, she has never
3 received a single dime. GoFundMe specifically does not allow
4 you to set up an account for anyone that has -- that's being
5 charged with a criminal offense. So the fact that the
6 Government is harping on a GoFundMe account that is not
7 connected to her once again shows that they are scraping and
8 clawing to build a mountain out of a molehill.

9 As far as the burden goes, the Government has to
10 prove by a preponderance of the evidence that she is a -- of
11 dangerousness and by clear and convincing -- that she is a
12 serious risk of flight by a preponderance of the evidence,
13 that she's a risk of danger to this by clear and convincing
14 evidence. They have done neither.

15 We have proven -- provided testimony that she has
16 connections to Augusta, Georgia. Her family is willing to put
17 up property and every single dollar they have to ensure that
18 she comes back to court. She served our country honorably for
19 6 years and never went AWOL. There is no risk of her not
20 coming back to court.

21 The strongest argument the Government has is the fact
22 that she has an indictment against her and, therefore, she has
23 a total exposure of 10 years. She is prepared to come back to
24 court and face every hearing necessary as well as have her fair
25 day in trial.

1 specifically, we lay all of that out to show that the
2 Government has failed to meet their burden that she should not
3 be released pretrial and that she should not be given a
4 reasonable bond, which she is guaranteed to have by the
5 constitution. Thank you.

6 THE COURT: Any rebuttal argument?

7 MS. SOLARI: No, sir, Your Honor.

8 THE COURT: All right. Well, we're going to take a
9 recess. That recess will be at least 15 minutes long for
10 people who need to take a restroom break or stretch their legs.

11 And, Ms. Cirillo, if you could go in the back there.

12 COURT SECURITY OFFICER: All rise.

13 Court is in recess.

14 (A recess was taken from 6:01 p.m. to 6:32 p.m.)

15 COURT SECURITY OFFICER: All rise.

16 Be seated, please.

17 THE COURT: All right. I've taken some time in
18 chambers to listen to some key portions of the recording from
19 today's hearing. I've also gone back and looked at the factors
20 of the Bail Reform Act that we apply here every day in this
21 court and compared that to the arguments and the evidence that
22 we've heard here today.

23 The four factors that we consider -- first is the
24 nature and the circumstances of the offense. Second is the
25 weight of the evidence; third, the history and characteristics

1 of the person; and fourth, whether there's any danger to the
2 community.

3 In looking at that first factor, the nature and
4 circumstances of the offense, here, the nature and
5 circumstances of the offense alleged is that this defendant
6 violated a top secret security clearance by giving the media
7 information deemed to be top secret by the executive branch
8 agencies in charge of that information.

9 And by deeming it such, the Government has said that
10 publication of this information would put our country in grave
11 danger. So I think the nature and circumstance of that type of
12 offense militates in favor of detention, not in favor of
13 release.

14 In terms of the weight of the evidence, the weight
15 of the evidence here is strong. You do have a confession by
16 this defendant when she met with the agents, as detailed in
17 the affidavit by one of the investigating agents. She made a
18 damning statement to her mom on this recorded phone call, "I
19 screwed up, Mom," with respect to these documents. Those two
20 things alone are pretty strong indicia of guilt.

21 On top of that, you've got a lot of corroborating
22 facts in the information that the Government's been able to
23 uncover. She was one of only six people with in- -- with
24 access to this information that actually printed the document
25 that is in question. And of those six people who printed the

1 document, she is the only one, according to the evidence we
2 have to date, that communicated with the news outlet that
3 eventually received and published the information, and the
4 information was mailed from Augusta. So you've got
5 corroborating evidence that supports the confession she's given
6 to the agents.

7 Now, I do want to remind Miss Winner, in making these
8 findings today and as I go to that weight-of-the-evidence
9 factor, I'm -- you're still presumed to be innocent of these
10 charges. Nothing I say here today touches on whether you're
11 guilty or innocent. It's just part of the analysis we have to
12 conduct in determining whether you should be detained.

13 Moving on to the -- probably the most debated part of
14 this today, who is she? what are her characteristics? what is
15 she in terms of her personality and her loyalties and the kind
16 of person she is?

17 And so many times when we're in court here, we see a
18 distinct person that's drawn by the people close to someone,
19 that loves them so much, like the parents and friends do here,
20 and then we see a completely different person that is
21 characterized by the evidence that the Government has in its
22 hands. And I think that's what we've got here.

23 If we were dealing with the person that Miss Winner's
24 parents know and love, then there would be no question that she
25 ought to be released. And when they testified that they would

1 put up their house and everything else that belongs to them
2 because their daughter, they believe, would never do anything
3 to violate the terms of release, including flight, I believe
4 them wholeheartedly. There's no doubt in my mind that they
5 feel that way about her. And they've raised her to be a very
6 successful and loving and diligent member of our society, and I
7 praise them for that.

8 But then you've got the side that the Government
9 takes the -- takes a -- has described here today, and that's
10 the part that really concerns me in terms of whether she's a
11 risk of flight and a danger to our community.

12 The person that they describe, unknown to her parents
13 and friends, searched, while she was a member of the armed
14 services, on whether you can detect putting a thumb drive
15 inside of a top secret computer. And lo and behold, the same
16 day, she did it. She put a flash drive inside that -- a top
17 secret computer. And we don't know what happened with it. We
18 don't know where that flash drive is today. That concerns me.

19 Second, you know, you've got this Tor router that
20 she was searching on the most secure setting you could put it
21 on. She had attempted to set up a single-user burner e-mail
22 account. She noted she wanted to burn down the White House.
23 Whether that's in jest or not, it's still concerning to me.
24 And she seems to have a fascination with the Middle East and
25 Islamic terrorism.

1 And to me, it's fundamentally at odds with the person
2 her parent knows and -- her parents know and the person that
3 served our country in the ways that she has to put in her
4 personal notes that it's a Christ-like vision to have a
5 fundamentalist Islamic state. I can't square that kind of
6 remark by her with who her parents know and the service that
7 she's given to our community.

8 And then calling her mom and saying she's going to go
9 nuclear in the press if I make a conscious, well-reasoned
10 decision to keep her detained and asking her mom to transfer
11 money out of her account because I knew it was there and that's
12 why she didn't get a lawyer for free, all those things paint a
13 different image of her than what her parents know as well.

14 And then in terms of danger to the community, I think
15 there's a compelling argument there as well. Where is that
16 thumb drive? If that information was downloaded from a top
17 secret computer, by its very nature, that information would
18 be -- put our country in grave danger. And to me, that falls
19 well within the landscape of danger to our community. In fact,
20 to me, it's even much more compelling than that. It's not just
21 danger to the people in the CSRA. It's danger to the entire
22 nation.

23 Other questions that we don't know the answer to and
24 cannot know -- how much does she know from all the time she's
25 had a top secret security clearance both before and after her

1 time of military service, and who might she tell? And I'm
2 worried about all those things given the picture the
3 Government's painted of this defendant.

4 And so for all those reasons, I think the Government
5 has carried its burden of proving by a preponderance of the
6 evidence that no condition or combination of conditions will
7 reasonably assure the appearance of the defendant as required
8 for this case and also, by clear and convincing evidence, that
9 no combination of conditions will reasonably assure the safety
10 of the -- of other people and the community here.

11 Certainly, you have the right to appeal that decision
12 to the presiding district judge in this case, J. Randal Hall,
13 if you'd like to do so.

14 And I do want to compliment the lawyers on both sides
15 of this. Obviously, my decision today does not reflect what I
16 think about the quality of the work on both sides.

17 Mr. Nichols, Mr. Bell, y'all came well-prepared,
18 and you put on some really good witnesses and some compelling
19 arguments, and I appreciate you doing that.

20 And certainly, on the Government's side is
21 Ms. Solari. Your work was equally high quality in its
22 presentation here today.

23 Is there anything other than detention that we ought
24 to discuss here today before we adjourn, Ms. Solari?

25 MS. SOLARI: Your Honor, one matter from the

1 Government.

2 I think intending perhaps to serve the best interest
3 of his client, Mr. Nichols has made several appearances in the
4 news media and granted several interviews as well to
5 newspapers. Our U.S. Attorney, Mr. Durham, delivered to him
6 via e-mail a letter yesterday summarizing some of the comments
7 that we have noticed in the media commenting about the evidence
8 in the case, the defendant's guilt or innocence, and perhaps
9 the credibility of the actions, the evidence, or the witnesses
10 of the Government. We reminded Mr. Nichols of our local
11 criminal rule, 53.1, cited that rule in our letter, and
12 provided him a copy.

13 I only ask that the Court reinforce that since,
14 obviously, there is a significant media interest in this case
15 that we expect will be ongoing for quite some time. It is of
16 the utmost importance to us that the defendant receive a fair
17 trial and that the Government also have a fair opportunity to
18 present its case. And we would only like all counsel to abide
19 by the rules of the Southern District of Georgia in their
20 conduct and comments to the press.

21 THE COURT: Thank you, Ms. Solari.

22 I will say for the record that I shared that concern.
23 I had a conversation with Mr. Nichols and e-mailed him that
24 local rule 2 days ago. I don't read all the papers and all the
25 TV accounts of these things, in part, because I don't think

1 that it's consistent with my duty to only focus on the things
2 that actually happen in this room, so I'm not as well-apprised
3 about statements that he's made. But, certainly, enough got to
4 me that I had that concern, and we had that conversation.

5 Mr. Nichols, you've had a chance to look at that
6 local rule now. I wouldn't think that we've got any
7 expectation of you having any problems abiding by it from now
8 on.

9 Is that right, Mr. Nichols?

10 MR. BELL: Your Honor, if I might respond on his
11 behalf.

12 THE COURT: Sure.

13 MR. BELL: I'd ask that -- cases came up -- I was
14 hoping -- on media record things, they keep playing it. Your
15 contact ended it.

16 THE COURT: Okay.

17 MR. BELL: Okay. Then they send a letter. But they
18 have also sent a press release that I think is more dangerous,
19 more damning, and more in violation of the local rule than what
20 was accused here.

21 He's accused of saying she does not have a prior
22 criminal record. Absolutely a factual truth. And if you read
23 the thing, the rule as its written by this Court -- and I'm not
24 challenging it -- what they don't want lawyers doing is
25 disparaging a criminal defendant or opposing party by saying,

1 oh, he's already had all these horrible things happen. That's
2 what I view the -- the evil is (indiscernible).

3 And I also want to point out that the local rule, the
4 one -- and I'm not saying they're incompatible, but Rule 83.5
5 of this court provides that we are subject to the ABA canon of
6 ethics and the Georgia Bar canon of ethics. And when they are
7 in conflict, the Georgia Bar canon of ethics applies.

8 And what does the -- what do the cannon of ethics
9 provide? Let me get it. I thought I had it right here.

10 They provide you shouldn't say anything to the press
11 that's going to interfere with the function of justice. And
12 I don't think that's happened here. I don't think anything's
13 tainting a jury. Telling the press a factually true thing,
14 that she's got a clean record, does not taint anything. And I
15 think there was all innocence in the thing.

16 And, you know, the press has been -- gosh, I've never
17 been in a case with so much press. And they're all doing their
18 duty under the First Amendment, which we all do.

19 But the Georgia Bar rules, which becomes the rule
20 because this provision is both in the ABA canon and in
21 Georgia's canon, and it's Rule 3.6. Notwithstanding the
22 prohibition of making statements that might interfere with the
23 fairness of a proceeding, which is Section A, a lawyer may make
24 a statement that a reasonable lawyer would believe is required
25 to protect the client from substantial undue prejudicial effect

1 of recent publicity not initiated by the lawyer or the lawyer's
2 client.

3 Now, we've got what they released. We've got the
4 headline in today's paper that some guy got fed to them.
5 Your Honor, we have a media barrage aimed at my client trying
6 her in the press. And saying to the press she has a clean
7 record compared to what we have received from the Government,
8 if there is to be chastisement, it should be both sides.

9 We're going to abide by it. The things we've done,
10 we're pretty -- in fact, we were grateful for hearing from the
11 Court. This thing kind of came -- they wanted coordination.
12 But it's kind of hard to litigate against this and that and all
13 the things that have been put in there.

14 She's got all these cell phones. Well, if you went
15 to my house today -- and I've never -- I've got a cell phone
16 for me. I've got my wife; all my kids, many of them not living
17 there. I'm still paying. You'll find piles of cell phones.
18 None of them work. Some of them are Nokias; some of them are
19 BlackBerrys; and some of them are the iPhone that's out in my
20 car. We've got a basement full of old computers that aren't
21 worth \$10.

22 But this same thing that was fed to the paper by some
23 unknown force that implies a whole cyber warfare going on on
24 Battle Row that I think the evidence will -- that hasn't been
25 examined, as they admit, and they don't know of it having a

1 single implication.

2 But I've been asked, "why does your client got all
3 those cell phones and computers?" by just bystanders who read
4 today's paper.

5 There has been abuse of the press in this case.
6 But one is a giant over the other. We appreciate that. We
7 appreciate the rules. We want to litigate this case in this
8 courtroom, and we think it's a wonderful place to be. But the
9 chastisement of the -- as the Bible says, you know, this -- the
10 mote in your eye versus the log in the chastiser's eye applies
11 quite well here. Thank you.

12 THE COURT: Thank you, Mr. Bell. Let me be clear.
13 I'm glad you mentioned the word "chastise." My purpose here
14 today is not to chastise anyone.

15 MR. BELL: We appreciate it.

16 THE COURT: And, you know, all this media stuff
17 occurring outside of these four walls I care nothing about
18 except to the extent that either side accuses the other of
19 improprieties. And so I'm not out there taking notes about who
20 said what to the press. I certainly have no basis today to
21 make any finding that anyone's done anything wrong with respect
22 to our rules, the governing rules you just mentioned.

23 So when I reached out to Mr. Nichols the other day,
24 it was not to say I thought he had done anything improper. It
25 was just to say, "Make sure you understand this local rule is

1 there," because lawyers, all the time in the middle of cases,
2 get caught up in local rules they didn't even know were there.

3 And so that was -- the only intent in me calling him
4 was to put him on top of those local rules because I knew that
5 there was a lot of activity with the media going on. And
6 certainly, we want to hold both sides to the same standard.

7 MR. BELL: And, Your Honor, we appreciated that. We
8 did.

9 THE COURT: I want to make sure no one thinks I'm
10 coming down on Mr. Nichols today. I'm not. All I was simply
11 remarking in reply to Ms. Solari's comments is that we've had
12 this discussion. I don't think it's going to be a problem.

13 MS. SOLARI: We're not asking the Court to reprimand
14 defense counsel. But if Your Honor will indulge me for a
15 second, I do feel compelled to reply to defense counsel's --
16 I don't think they're insinuations. I think they're flat out
17 accusations.

18 I suspect the reason the press knows several
19 electronic devices were seized from the defendant is --

20 THE COURT: Ms. Solari --

21 MS. SOLARI: -- because the --

22 THE COURT: -- I really --

23 MS. SOLARI: -- search warrant --

24 THE COURT: I really don't --

25 MS. SOLARI: -- returned --

1 THE COURT: I don't want to get in a back-and-forth.

2 MS. SOLARI: I just want to make clear, Your Honor,
3 that the U.S. Attorney's Office has in no way violated the
4 local rule. Press releases are accepted by the local rule,
5 and we have disclosed nothing else to the press about this
6 case. Whatever was published was discerned from matters of
7 public record that were filed with the court and have nothing
8 to do with us.

9 So rather than defense counsel defending their
10 actions by some ABA rule, all we ask is they comply with the
11 local rules of this Court.

12 THE COURT: And we're way outside the bounds of me
13 making any findings today. All I can say is I -- we have
14 wonderful, quality lawyers here on both sides of this. It's
15 my expectation that everyone's going to follow all of the
16 applicable rules.

17 If there's an allegation that someone has violated
18 one of those rules, then I'm going to need to take evidence, or
19 Judge Hall -- whoever takes that up will need to take evidence
20 on the matter before any factual findings can be made by this
21 Court. So that's all we can do today.

22 MS. SOLARI: Thank you, Your Honor. I appreciate
23 that.

24 If I may bring up one other matter again, if the
25 Court will --

1 THE COURT: Sure.

2 MS. SOLARI: -- give me just a moment. And this
3 is something that Mr. Aaron brought up and reminded me, and I
4 appreciate that.

5 We are possessed of security clearances, so we are
6 privy to certain information. Defense counsel -- I know
7 Mr. Nichols, at the very least, possesses a secret clearance.
8 We simply need to remind counsel that everybody with a security
9 clearance in this case -- secret, top secret, otherwise -- has
10 a continuing duty to protect classified information, even that
11 which someone may think has been divulged in the public domain.
12 Just because that may have happened does not render anything
13 unclassified. So everyone with a clearance has a continuing
14 duty to guard classified information.

15 THE COURT: Well, I'll tell you what. I think -- I'm
16 glad you mentioned that, not because I'm afraid anybody's going
17 to commit any intentional or reckless violation, but just to
18 say that I think anybody working on this case must read the
19 Classified Information Procedures Act, the security procedures
20 established by the Chief Justice of the United States, and
21 maybe a couple of sample protective orders out there so you can
22 understand the landscape in which we're operating here. It's a
23 very delicate landscape.

24 And we have a lot of footwork that we've got to
25 accomplish in the next couple of weeks so we can get this up

1 and running because it's so fundamentally different than any
2 criminal litigation that you have outside of classified
3 information.

4 One protective order in particular I looked at that
5 counsel may want to take a look at is in the case -- Docket
6 Number 1:12-CR-134. That's out of the Eastern District of
7 New York. That's 1:12-CR-134. And the case is U.S. against
8 a name that I will not try to pronounce here in court.
9 Hopefully, that case citation will be enough. But it's a very
10 thorough protective order. And I'm sure that Mr. Aaron has one
11 in the bag that's probably similar and just as thorough, but
12 that's at least one to take a look at.

13 And certainly, it's not only just a document that's
14 been stamped top secret, but even a brief that makes arguments
15 about a document like that can contain classified information.
16 So we want to make sure we're very careful in what we do, and I
17 think that's why a planning conference very much sooner than
18 later is what we need.

19 MR. NICHOLS: Yes, Your Honor. I appreciate that,
20 especially the citation.

21 And, Your Honor, as an officer in the United States
22 Army, I don't need to be chastised by the Prosecution about
23 protecting my security clearance as well as any documents in
24 this case.

25 THE COURT: I mean, I think "chastise" is not the

1 right word to use, Mr. Nichols.

2 First of all, when you talk in court here, you should
3 stand up.

4 MR. NICHOLS: Yes, sir.

5 THE COURT: But second -- I mean, that's a basic rule
6 of lawyer etiquette here.

7 But second, I don't think that's a chastisement. I
8 think that it's very well worth repeating to everyone in this
9 room that we do not want a violation of classified information
10 on top of the one that's already alleged in the case. We've
11 got more than one -- more than we need right now anyway.

12 So caution is the word of the day. And I have no
13 doubt that you're going to exercise that caution, but it starts
14 with reading those sources that I just cited and preparing for
15 us to have that planning conference in 2 weeks.

16 MR. NICHOLS: Yes, sir.

17 THE COURT: All right.

18 MR. NICHOLS: Thank you, Your Honor.

19 THE COURT: Thank y'all, and we're adjourned.

20 COURT SECURITY OFFICER: All rise.

21 Court's adjourned.

22 (Proceedings concluded at 6:52 p.m.)

23

24

25

C E R T I F I C A T E

I, Victoria L. Root, Certified Court Reporter, in and for the United States District Court for the Southern District of Georgia, do hereby certify that the foregoing transcript of the proceedings held in the above-entitled matter was transcribed to the best of my ability from the Court's electronic recording system and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

WITNESS MY HAND AND SEAL this 17th day of June, 2017.

/s/ Victoria L. Root
VICTORIA L. ROOT, CCR B-1691 6/17/17
United States Court Reporter
Southern District of Georgia
Savannah Division

Post Office Box 10552
Savannah, Georgia 31412
(912) 650-4066