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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

UNITED STATES OF AMERICA, ) Case No. 3:22-CR-00033-BJB  
)  
Plaintiff, )  
)  
v. )  
)  
QUINTEZ O. BROWN, )  
) April 7, 2022  
Defendant. ) Louisville, Kentucky

\* \* \* \* \*

TRANSCRIPT OF INITIAL APPEARANCE  
BEFORE HONORABLE COLIN H. LINDSAY  
UNITED STATES MAGISTRATE JUDGE

\* \* \* \* \*

APPEARANCES:

For United States: Amanda E. Gregory  
U.S. Attorney's Office  
717 West Broadway  
Louisville, KY 40202

Jolee Porter  
Department of Justice  
Public Integrity Section  
1301 New York Avenue NW  
Washington, DC 20530

Transcriber: Dena Legg, RDR, CRR, CCR-KY  
Official Court Reporter  
232 U. S. Courthouse  
Louisville, KY 40202

[Defendant present.]

Proceedings recorded by digital recording. Transcript produced by computer from audio recording that the Court provided to transcriber.

1 APPEARANCES (CONTINUED):

2 For Defendant: Rob Eggert  
3 600 West Main Street, Suite 100  
4 Louisville, KY 40202

5 Patrick J. Renn  
6 Smith & Helman  
7 600 West Main Street, Suite 100  
8 Louisville, KY 40202

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1 (Begin proceedings via videoconference.)

2 DEPUTY CLERK: 3:22-CR-33, United States of America  
3 versus Quintez Brown for initial appearance and arraignment on a  
4 sealed indictment.

5 MS. GREGORY: Amanda Gregory for the United States.  
6 Also present on the call is my co-counsel, Jolee Porter. At  
7 this time we would move to unseal the indictment.

8 THE COURT: All right. And I see Mr. Eggert,  
9 Mr. Renn. You-all are here as retained counsel for the  
10 defendant; correct?

11 MR. EGGERT: Yes, Your Honor. Rob Eggert and Patrick  
12 Renn, and we're here for Quintez Brown.

13 MR. RENN: Good afternoon, Your Honor.

14 THE COURT: All right. Good afternoon.

15 Any objection to the motion to unseal?

16 MR. EGGERT: No.

17 THE COURT: All right. So I'll order that to be  
18 unsealed.

19 Let me say preliminarily to spectators, including press, but  
20 really anyone other than counsel who are participating in the  
21 call a couple of things. Please remember that although we're  
22 doing this via Zoom, we're still in court; and so the usual  
23 rules apply. No recording, no photography, and no questions or  
24 conversation from the audience.

25 I will ask -- I see most people have done so already. I

1 will ask, other than counsel and Mr. Brown, if you would please  
2 mute your line. We get a lot of audio feedback when people do  
3 not have their lines muted. Does anybody need help finding that  
4 or figuring out how to do that on Zoom?

5 All right. Mr. Wilson, I don't know if you're there. I see  
6 a screen with your name on it, and your line does not appear to  
7 be muted. Can you mute your line, please.

8 All right. Theresa, can you take care of that, please.

9 DEPUTY CLERK: Yes, sir.

10 THE COURT: All right. So, Mr. Eggert or Mr. Renn,  
11 whoever is going to speak primarily or initially for you-all, do  
12 you-all consent to having today's initial appearance and  
13 arraignment via videoconference?

14 MR. EGGERT: No, Your Honor. We'd ask for a personal  
15 appearance, and that would be our motion, for a personal  
16 appearance. In addition, Your Honor --

17 THE COURT: All right.

18 MR. EGGERT: -- we would make a motion -- we believe  
19 that the court does not have jurisdiction, that the federal  
20 authorities did not take our client, as required in accordance  
21 with the rules, from state custody. And so we would submit that  
22 Your Honor does not have jurisdiction. So we do not consent to  
23 a -- to any kind of Zoom hearing, and we'd ask for a personal  
24 appearance.

25 THE COURT: All right. So I want to understand the

1 extent to which you are coupling those two things. First of  
2 all, the rules -- now, I haven't looked at any of our general  
3 orders again today, but certainly the rules of criminal  
4 procedure allow for videoconferencing if the defendant consents.

5 As I've made it clear to -- I don't recall whether I've made  
6 it clear to you-all in particular, but as I've made clear to  
7 various lawyers in criminal proceedings, I'm more than happy to  
8 do any proceeding in person if the defendant does not consent.  
9 So I'm happy to have this in person.

10 MR. EGGERT: That's -- yes, thank you.

11 THE COURT: So is -- and going back to that again --  
12 I'm not trying to be picky about how you phrased it, Mr. Eggert,  
13 but do you have a problem with jurisdiction beyond Zoom, or if  
14 we simply set this for an in-person proceeding tomorrow, does  
15 that take care of that issue?

16 MR. EGGERT: No, it doesn't take care of the issue,  
17 Judge. We would move for production of the writ of habeas  
18 corpus ad prosequendum that I presume they obtained to attain  
19 Mr. Brown before the court. So we would move for their  
20 production -- for that production. If they don't have it, we  
21 will continue to challenge the jurisdiction of the court.

22 MS. GREGORY: We dot not have a writ, but we consulted  
23 with the state, and they said we would not need one.

24 MR. EGGERT: Well, the states's not the authority.  
25 Anyway, we will file a motion to dismiss. We don't concede

1 jurisdiction. In fact, we submit the court does not have  
2 jurisdiction. We do ask for a personal appearance.

3 And, Your Honor, for the record, we have significant -- very  
4 real concerns. We believe that this prosecution of our client,  
5 Quintez Brown, is politically motivated and racially motivated,  
6 and we'd ask for every single thing in this case to be in  
7 person.

8 THE COURT: All right. Well, as to your broader point  
9 about the motivation for the prosecution, that's for another  
10 time. I don't know whether it might also be for another judge,  
11 but it's certainly for another time. And it's not necessary for  
12 me or anyone else to agree with that in order to agree that  
13 we'll have everything you want to have in person in person. So  
14 we'll plan on having in-person going forward.

15 I will point out that it would have been perfectly fine by  
16 me if we had this proceeding we're having right now -- if we had  
17 had it in person, but nobody requested that we do so. And,  
18 therefore, we did not make arrangements for the Marshals Service  
19 to bring Mr. Brown to the courthouse in Louisville.

20 MR. EGGERT: Understood, Judge, but please note that  
21 we had no idea that Mr. Brown was gonna be taken from his  
22 grandmother's home and multiple agents were gonna go there. We  
23 understood there was a helicopter there. We get -- received no  
24 notice of this until the family called us last night. So we've  
25 been scrambling ever since in the morning 'cause he was at one

1 home -- sitting at home and then federal agents are taking him  
2 away. So the court has always said we can have in-person. We  
3 appreciate that, but we had -- we had zero notice that federal  
4 authorities were gonna do this.

5 THE COURT: Understood. And so let me go back, then,  
6 to the issue of tomorrow's proceeding. I don't know that  
7 there's anything in the rules or at least in Rule 5 or Rule 10  
8 with respect to the arraignment that would cover this  
9 eventuality of the jurisdiction being challenged. So I have --  
10 there's an open question in my mind as to what the court has to  
11 do, but in the -- in terms of figuring that out, I would like to  
12 know what your position is and what the United States' position  
13 is on what we should do. And more specifically, I mean should  
14 we have an initial appearance in a case in which the  
15 jurisdiction is being challenged?

16 MR. RENN: Your Honor, in this case here, Mr. Brown  
17 clearly was serving a sentence under state court, and a writ  
18 would be required in order to get him out of state custody into  
19 federal custody.

20 Now, we just heard from the prosecutor that -- she said  
21 apparently they communicated with some unknown person in the  
22 state asking that they get permission. Again, I don't know who  
23 could give that permission and certainly how they could do it  
24 out of the presence of the judge who had him released on terms  
25 of home incarceration. So he was certainly still under a

1 judge's authority in the state court system, and somehow he was  
2 taken from his custody in state court and brought here into  
3 federal custody.

4 Obviously, under 5(f) the Court's now required to remind the  
5 Government of its obligations under *Brady* and *Giglio*, and in  
6 this case here we certainly think that's gonna come in as  
7 something exculpatory, how it is that he was taken and who gave  
8 this authority for the federal government to take him from state  
9 custody and bring him into federal custody.

10 So we would ask the court, despite our objections to going  
11 forward with the video proceeding under 5(g), but under 5(f) to  
12 at least remind the Government of its obligation and then, more  
13 importantly, any and all evidence to be preserved. And this  
14 means rough notes of anybody. This means reports of state  
15 agents, of the federal agents that may have participated. To  
16 the extent there's any warrants, that those warrants all be  
17 preserved because I think every bit of this evidence is gonna  
18 come into play in this case. And we are requesting that the  
19 court enter that order to preserve all evidence and have the  
20 Government be reminded of its duties to preserve that evidence,  
21 especially exculpatory evidence at this time.

22 THE COURT: Theresa, could you put me and counsel in a  
23 breakout room, please.

24 DEPUTY CLERK: Yes, Judge.

25 (Begin breakout proceedings with Ms. Gregory, Mr. Eggert,

1 and Mr. Renn.)

2 THE COURT: All right. Thank you-all.

3 So this is just like a sidebar. I wanted this on the  
4 record, but I didn't want to -- I just didn't want to do this in  
5 front of everybody if it wasn't necessary.

6 So, listen, maybe I'm missing something, but I know the  
7 press is here. I know this is a high-profile case. I just need  
8 an answer to some basic questions. All right? There is no  
9 point in making your argument -- making your motion to dismiss  
10 argument. I'm not gonna rule on it. You guys know that.

11 And the question I asked Rob that neither one of you  
12 answered is are we still having an initial appearance or are we  
13 not? Does that get tabled? I didn't say please advance the  
14 merits and let's make sure we mention race a couple of times. I  
15 mean, are we having an initial appearance or are we not?

16 And let me say this: What strikes me as a totally  
17 unworkable answer is, "No, we don't do any of the initial  
18 appearance. That's got to be done in person," but we go ahead  
19 and warn Amanda Gregory of her obligations. That we can do, you  
20 know, because somehow --

21 MR. RENN: Your Honor --

22 THE COURT: -- that lives all by itself outside of --  
23 I mean, that's not part of the rule.

24 MR. RENN: Your Honor, the most important thing here  
25 is we don't want to consent to jurisdiction to the extent the

1 court does not have jurisdiction.

2 Again, I would cite this case -- we did do preliminary  
3 research. Again, we just got notice of this last night -- but  
4 *United States v. Hubbard*, 2020 U.S. District Lexis 208210. And,  
5 basically, that says that the writ is the appropriate way to get  
6 somebody who is in state custody into federal custody.

7 THE COURT: All right. Pat, you're again ignoring  
8 what I said. I'm not gonna rule on that. You can have the best  
9 case for dismissal that you've ever had, and you could convince  
10 me utterly that it should be granted and that I should order,  
11 you know, Amanda Gregory to be publicly reprimanded in the well  
12 of the courthouse. It wouldn't do any good because I'm not  
13 gonna rule on that motion. Judge Hale or whoever the district  
14 judge is.

15 I just need to know what we're doing. Are we having -- what  
16 I -- here's what I don't want to do. We've already gotten 25  
17 people involved in this, all right, or approximately, however  
18 many people are on the screen. I mean, I don't want to have 25  
19 people in the courtroom tomorrow and spend 20 minutes at the end  
20 of which -- or an hour or three minutes, for that matter, at the  
21 end of which we decide that we shouldn't have an initial  
22 appearance.

23 So I'm just trying to figure out are we having an initial  
24 appearance today, or do you-all need to file a motion? And do  
25 we need to rule on that? You know, I read the rule as saying,

1 you know -- and I can't remember now whether it's immediately or  
2 forthwith or as soon as possible, but, you know, these things  
3 need to happen right away. I don't see anything in the rule  
4 about this, but I didn't know this was coming. So I haven't  
5 done any preliminary research on it.

6 So that's my only question at this point is what -- when I  
7 say "What are we doing?" I don't mean that like a frustrated  
8 parent. I mean, literally, what are we doing? What proceeding  
9 are we having today? What proceeding are we gonna have  
10 tomorrow?

11 MR. RENN: Well, if you would feel comfortable asking  
12 this or answering this, Ms. Gregory, by what authority was he  
13 brought here?

14 THE COURT: No.

15 MR. RENN: Okay.

16 THE COURT: I'm not comfortable with this because I --  
17 listen, this case is just as important as any other case I have,  
18 but it's not any more important than any other case I have. And  
19 I'm not gonna take time to do this because it's a total waste of  
20 my time because I'm not gonna rule on it, and it's a total waste  
21 of your-all's time to do it in front of me because I'm not gonna  
22 rule on it.

23 So y'all figure that out, file a motion. Hey, if the answer  
24 is we shouldn't have an initial appearance. We should have a  
25 hearing tomorrow. Maybe Judge Hale wants me to do an R&R,

1 whatever. I'm not trying to avoid it, but I do need to know  
2 what kind of proceeding we are having.

3 MR. EGGERT: Your Honor, just to go back, when you  
4 mentioned the press being here -- what we will do is we'll file  
5 a motion to dismiss today. That's what we'll do. All right?  
6 And that's what we'll do is we'll file it this afternoon.

7 When you mention the press being here, this has nothing to  
8 do with the press. Judge, this is -- you understand, we took --  
9 we spent an extraordinary amount of time getting this man mental  
10 health treatment.

11 I wrote a letter to Ms. Gregory and the U. S. Attorney.  
12 They never even answered, and then they pluck our guy out. So  
13 this has nothing to do with the -- with the press, what I'm  
14 saying today and what I've said in open court, zero. All right?  
15 I said it without any press here. I said it in a letter. So  
16 that has nothing to do with it.

17 Regarding what you're saying on this motion to dismiss,  
18 we'll go ahead and we'll file the motion to dismiss today, and  
19 we'll be happy to be heard tomorrow morning.

20 THE COURT: Okay. So the question -- first of all, as  
21 to the press, all I was trying to do was show you a little bit  
22 of an exit ramp there. I wasn't trying to accuse you of  
23 anything. What I was trying to say is I get it. All right?  
24 You have to not only do your job, but you have to appear to be  
25 doing your job. I'm just saying that's why I came into a

1 breakout room because I didn't want to make it a big argument.  
2 You know, I didn't want to make a public spectacle out of this  
3 part. All right? That's all.

4 Secondly, I need to know what your-all's position is, not  
5 what you're willing to do, not what you feel like I've cornered  
6 you into doing. I need to know what your position is as to  
7 whether we are supposed to do an initial appearance in a  
8 situation where there is a motion to -- where there is about to  
9 be -- there's been an oral motion to dismiss and that is going  
10 to be supplemented, or however you want to put it, with a  
11 written, and I still haven't heard anybody tell me that.

12 MR. EGGERT: Judge, if Mr. Renn and I could have a 60-  
13 second recess.

14 THE COURT: Take as long as you want.

15 Let me ask you this -- well, I'm trying to figure out what's  
16 the best or -- either the least complicating or the -- so, yeah,  
17 Theresa, would you open another breakout room, put Mr. --

18 MR. EGGERT: We're right here, Judge.

19 THE COURT: Oh, are you guys physically in the same  
20 place?

21 MR. EGGERT: We're just right across the hall.

22 THE COURT: Here, do this: Just -- we'll be on the  
23 safe side. Mute your line. Even if you think you're stepping  
24 away from the computer, I don't want to accidentally overhear  
25 anything. Mute your line and you can come back in here -- just

1 come back to your computer and unmute when you're ready.

2 (Mr. Eggert and Mr. Renn conferring off the record.)

3 THE COURT: All right. Ms. Gregory, I'm just going to  
4 stop my video, and you will also be here.

5 [Inaudible.]

6 THE COURT: Thank you.

7 (After a recess, breakout proceedings resumed with  
8 Ms. Gregory, Mr. Eggert, and Mr. Renn.)

9 THE COURT: All right. So where do we stand,  
10 gentlemen?

11 MR. EGGERT: Your Honor, we would ask for an initial  
12 appearance tomorrow. We will file -- our client's in custody,  
13 in jail, obviously. So we have an interest in having this  
14 initial appearance tomorrow in person.

15 We will subsequently file our motion to dismiss. And I  
16 think Mr. Renn's motions were made, as required by rule, at the  
17 first appearance or as suggested by the rules. So all those  
18 motions still stand, exculpatory evidence and every other one  
19 that he filed.

20 MR. RENN: Your Honor, that's correct. Under Rule  
21 (f)(1) of Rule 5, it says, "In all criminal proceedings, on the  
22 first scheduled court date when both the prosecutor and defense  
23 counsel are present, the court shall issue an oral or written  
24 order." So this is the first scheduled court date. So --  
25 excuse me -- that's why I requested the admonition and the

1 reminder to the prosecutor.

2 And then as another aside, Your Honor -- so that we don't  
3 get in here and have any surprises -- we have previously  
4 discussed with the court about our position that the pretrial  
5 services officers should not be meeting with our clients without  
6 an attorney present. And we would request to be present with  
7 our client physically when he is interviewed by probation, and  
8 hopefully the probation officer likewise would be present.

9 THE COURT: You lost me right there at the end. Oh,  
10 you mean that the probation officer would be present in person,  
11 as opposed to doing it via Zoom?

12 MR. RENN: Yes, Your Honor. I believe it would be  
13 Ms. Waddle.

14 THE COURT: Right. Didn't -- hasn't Ms. Waddle  
15 already offered to one of you to -- or try to -- I don't want to  
16 say try --

17 MR. RENN: Yes.

18 THE COURT: -- like you-all didn't cooperate, but  
19 hasn't she already initiated some working out of the terms of  
20 the interview with you-all?

21 MR. RENN: Your Honor, she has. Very much appreciate  
22 that. And, again, she did reach out to Mr. Eggert. I have  
23 worked on this myself, but I guess the request that Mr. Eggert  
24 was talking about here this morning and shared it with me and --  
25 again, so that we don't have any other further delays or

1 interruptions is that we want to be present not just on the Zoom  
2 with, you know, Mr. Brown but also would request that Ms. Waddle  
3 likewise -- we can come down to the court early and do it there  
4 at the jail or in the courtroom, whatever the court would like.

5 THE COURT: Yeah. Well, certainly in terms of  
6 your-all's ability to meet with your client in person, I don't  
7 know that there's anything I need to say or do about that. If  
8 you-all want to meet with him in person, I think you ought to be  
9 able to.

10 To the extent that -- I don't know if the marshals have a  
11 particular policy that they're using right now the way some of  
12 the jails have. Do either one of you know of an issue or  
13 problem with that, that the marshals -- in other words, is this  
14 something that the Marshals Service won't do unless they're  
15 ordered to do it?

16 MR. RENN: I don't know. Go ahead, Mr. Eggert. I'm  
17 sorry.

18 MR. EGGERT: No, I was gonna say, Judge, but we want  
19 the -- to be present personally when Ms. Waddle does her  
20 interview. That's -- it's not just that we want our client --

21 THE COURT: I understand, yeah. I was speaking too  
22 loosely. Yeah, I understand.

23 Now, as to whether Ms. Waddle participates in -- Officer  
24 Waddle participates in person, I'm not inclined on -- at least  
25 not without some sort of authority to order that she do so. I

1 certainly will issue any order that I would need to that would  
2 facilitate or allow, if it's not otherwise going to be allowed  
3 as a matter of course, you-all to be present with your client  
4 during the interview, but I don't know of any authority that I  
5 would have or -- you know, I don't know what the standard would  
6 be if I were weighing a motion to order the probation -- U.S.  
7 Probation to conduct an interview in person as opposed to via  
8 videoconference, having never --

9 [Overlapping speakers.]

10 MR. EGGERT: We'll discuss that.

11 THE COURT: -- before.

12 MR. EGGERT: We'll discuss that with Ms. Waddle  
13 because, obviously, I would expect probably she'll be here  
14 tomorrow. We know we'll be here tomorrow. Mr. Brown will be  
15 here tomorrow so --

16 THE COURT: Yeah, yeah, and it may be that there's no  
17 issue whatsoever. She'll say, "Sure. I'm gonna be on the  
18 fourth floor. I'll come downstairs."

19 Okay. So let me back up a -- oh, okay. Mr. Renn,  
20 obviously, I know it's part of Rule 5, but what specifically  
21 were you looking at when you were talking about the first  
22 scheduled court appearance?

23 MR. RENN: Your Honor, it's Rule 5, subsection (f).

24 THE COURT: Right.

25 MR. RENN: And, again, it speaks to the first

1 scheduled court date.

2 THE COURT: Right. Yeah, and I don't want to make a  
3 mountain out of a molehill. I mean, obviously, it's an  
4 admonition I'm required to give and I'm going to give. The only  
5 extraordinarily minor question is when.

6 But, you know, looking at it -- although it's all nested  
7 under initial appearance, you know, each of these paragraphs,  
8 you know, lives and breathes on its own and sub (f) doesn't say  
9 anything about an initial appearance. It speaks, as you say,  
10 only of the first scheduled court date, and that is today, even  
11 if we're limited in scope in terms of what we're doing today.  
12 So I think you're right about that.

13 Ms. Gregory, do you -- it would surprise me somewhat, but  
14 rather than issuing spoiler alerts, let me just ask you. Do you  
15 have a position on when that admonition ought to be given?

16 MS. GREGORY: No, Your Honor. I'm happy to receive it  
17 now.

18 THE COURT: Okay. All right. So we'll do that.  
19 We'll do that in open court just because that's the way we would  
20 normally do it.

21 So hang on for just a sec, please. And I don't mean I'm  
22 putting you on hold or something. I just want to look at  
23 something for a second.

24 So, again, under the same heading of not making a mountain  
25 out of a molehill, let me just ask you if we're all in agreement

1 on this because we're going to do the initial -- you know, the  
2 balance of the initial appearance or all of the initial  
3 appearance in person tomorrow -- and there is one thing that we  
4 need -- is 1:00 workable for you-all?

5 MR. RENN: Yes, Your Honor.

6 MR. EGGERT: Yes, Your Honor.

7 MS. GREGORY: Yes, Your Honor.

8 MR. EGGERT: Yes.

9 THE COURT: Okay. We've got one thing we need to work  
10 around, and it's -- as I said earlier, it's no more or less  
11 important than this case. It's just one where we already have a  
12 translator/interpreter scheduled. So we'd prefer not to have to  
13 move that one.

14 So there's a motion, essentially, to have this initial  
15 appearance in person. I assume there's no objection from the  
16 United States on that.

17 MS. GREGORY: No, Your Honor.

18 THE COURT: Okay. So we'll have it in person. And so  
19 everything else that we would normally cover at the first  
20 appearance -- but only because the first appearance is typically  
21 the initial appearance -- is give Mr. Brown's rights, the status  
22 between you-all are retained counsel, going over the charges,  
23 all of that can happen tomorrow. Are we in agreement in that?

24 MS. GREGORY: Yes, Your Honor.

25 MR. RENN: Yes, Your Honor.

1 MR. EGGERT: Yes.

2 THE COURT: All right. Now, I want to just go over  
3 one thing, just in case there's any lingering doubt about this.  
4 With respect to the motion to dismiss -- really, I guess it's  
5 two things.

6 Number one, I want you-all just to understand, just as  
7 counsel, you know, as people I see and will see and will  
8 continue to see, I'm happy to do whatever I need to do on that.  
9 All right? I don't -- I'm not interested in -- or interested in  
10 or attempting to avoid any of it, but a motion to dismiss, to  
11 the best of my knowledge, is reserved to the discretion of the  
12 trial judge, in other words, the district judge. So I don't --  
13 I don't think I would have authority to grant it. I think it's  
14 very unlikely -- although it would certainly be allowed and  
15 there would be nothing out of order about it, but I think it  
16 would be unlikely for Judge Hale to refer that to me for an R&R.

17 So I just want you-all to know, as I say, as counsel, as  
18 individuals, that's what I mean when I say we're wasting our  
19 time on this. It's not because I've got a tee time. All right?  
20 It's because I think it's outside my -- outside the sphere of my  
21 authority; and so I don't think it's helping you-all any more  
22 than it's helping me.

23 And in terms of when you-all are heard on that, I think --  
24 at some point, Mr. Eggert, you may have said something  
25 indicating you'd like to be heard on that tomorrow. I can't

1 make any promises about that. If Judge Hale wants me to -- if  
2 he gives me the authority to hear an argument, I'll hear it. If  
3 he doesn't, it will be up to him when he hears it.

4 MR. RENN: Your Honor, just so we do have a clean  
5 record on this, Rule 12, subsection (b)(2), states that a motion  
6 that the court lacks jurisdiction may be made at any time while  
7 the case is pending.

8 So, obviously, there's -- the case is pending now that he's  
9 been arrested. He's now been brought before the court. So it  
10 may very well be premature, and the court is probably right that  
11 it would not be a motion that you would be able to hear, but we  
12 could certainly file the motion orally. And as Mr. Eggert said,  
13 we'll follow up with a written motion here today.

14 THE COURT: Just in -- you know, maybe I'm beating a  
15 dead horse, but I'm not saying it's premature. I'm not saying  
16 it's early. I'm not saying you shouldn't bring it to the  
17 court's attention. I'm just saying that I personally -- as the  
18 magistrate judge assigned to the case, I do not think I have the  
19 authority to rule on it.

20 MR. RENN: Yes, sir.

21 THE COURT: By all means, you know, that motion can  
22 and should be made whenever you want to make it.

23 MR. RENN: Yes, sir.

24 THE COURT: Okay. So, Ms. Gregory, anything -- I've  
25 heard primarily -- been asking questions primarily of defense

1 counsel. Anything that you need to say about any of these  
2 issues that we've been discussing?

3 MS. GREGORY: No, Your Honor.

4 (End of breakout conference.)

5 THE COURT: All right. Thank you-all. I appreciate  
6 everybody's patience. For those of you who were not in that  
7 breakout room, that was an extended and Zoom version of a  
8 sidebar, and there were some issues that I thought were more  
9 appropriate to discuss just with counsel.

10 Mr. Renn, Mr. Eggert, you-all obviously have full right and  
11 discretion to discuss with your client anything and everything  
12 we discussed in the breakout room.

13 All right. So because Mr. Brown's lawyers have requested  
14 that the balance of the initial appearance be done in person, we  
15 are going to schedule that for tomorrow at 1:00 p.m. We'll  
16 direct the Marshals Service to bring Mr. Brown up.

17 And, Mr. Renn and Mr. Eggert, I'll leave it to you-all to  
18 coordinate with the Marshals Service and with probation about  
19 any interview, and specifically what I mean is in terms of a  
20 timing of Mr. Brown's arrival here in Louisville. I'll let  
21 you-all coordinate with the Marshals Service on that front.

22 So the one aspect that we sometimes would cover in the  
23 initial and sometimes we cover at a later time, I will remind  
24 the prosecution of its obligations under *Brady v. Maryland* and  
25 related cases. As Mr. Renn pointed out correctly, Rule 5 --

1 when it comes to that admonition, Rule 5 speaks of the first  
2 scheduled court appearance, as opposed to -- or first scheduled  
3 court date, as opposed to making specific reference to the  
4 initial appearance.

5 So despite the fact that the initial appearance will happen  
6 tomorrow, I will remind the United States now, under *Brady v.*  
7 *Maryland* and related cases, to produce exculpatory evidence to  
8 the defense. Any failure to do so may lead to sanctions of the  
9 United States, limitations on the use of or exclusion of the  
10 evidence, or dismissal of these charges.

11 So [inaudible] as to the initial, but, Mr. Renn and  
12 Mr. Eggert, for efficiency sake -- oh, I'm sorry. I'm reminding  
13 myself of one other thing that I wanted to say, and that is  
14 the -- we're doing the initial appearance notwithstanding the  
15 forthcoming motion to dismiss because I think there's agreement  
16 amongst the prosecution, defense, and the court that there's  
17 nothing in the rules that delays the court's obligation to  
18 conduct the initial and other preliminary proceedings even if  
19 there is a motion that is either going to be filed or has been  
20 already made.

21 And so I would note for the record that having the initial  
22 and the arraignment and any other preliminary thing we may do  
23 would be without prejudice to, without waiver by the defense of  
24 any motion to dismiss or any grounds for that motion.

25 So the more specific question I was going to ask Mr. Renn

1 and Mr. Eggert, is there any reason not to do the arraignment  
2 tomorrow as well as the initial appearance?

3 MR. RENN: No, Your Honor.

4 MR. EGGERT: No, we can proceed with the arraignment.

5 THE COURT: All right. And let me skip ahead for --  
6 just for scheduling purposes. Ms. Gregory, is the United States  
7 going to be seeking detention of Mr. Brown?

8 MS. GREGORY: Yes, Your Honor, we will be seeking  
9 detention pursuant to (f)(1)(A) -- 3142(f)(1)(A) and  
10 3142(f)(1)(B). He has been charged with a crime of violence,  
11 and the maximum -- he has been charged with other crimes where  
12 the maximum sentence is life.

13 THE COURT: All right. And is there any reason why  
14 the United States would not be prepared to argue that motion  
15 tomorrow?

16 MS. GREGORY: No, Your Honor. We can proceed  
17 tomorrow.

18 THE COURT: Okay.

19 MR. EGGERT: Judge, we're gonna have -- we do not want  
20 to have that detention hearing tomorrow. In fact, we were gonna  
21 ask that a detention hearing -- we would waive the rule and ask  
22 for a week from Friday.

23 Our client has been in custody -- has been on home  
24 incarceration. He's undergoing psychiatric treatment. He's on  
25 medications. He's gotten medical help, and we have evidence

1 that we want to present to the court at the detention hearing.  
2 So we do not want that hearing tomorrow. We'd ask that it be  
3 for a week from tomorrow and to release Mr. Brown, who of course  
4 was out of custody at home and under psychiatric care when  
5 federal authorities took him out of the house in his pajamas.

6 THE COURT: Well, there are a couple of things there.  
7 Absent -- well, take the easy part first. If you don't want to  
8 have it tomorrow, I'm not gonna try to rush that. If you want  
9 to have it a week from Friday, that's totally fine.

10 MR. EGGERT: Thank you.

11 THE COURT: It's your right. I just wanted to ask  
12 you-all one at a time.

13 As to releasing Mr. Brown, certainly the anticipation would  
14 be that Mr. Brown would remain in custody until such time as  
15 there is a detention hearing. So if the defense is seeking any  
16 extraordinary release in advance of the detention hearing, I  
17 would have to hear some additional authority on that. If you  
18 want to argue that tomorrow, I'll be all ears, but that --

19 MR. EGGERT: Thank you.

20 THE COURT: -- that would be the -- as I say, that  
21 would be the anticipation, not necessarily the result.

22 All right. So what else for the United States, if anything?

23 MS. GREGORY: Nothing further, Your Honor.

24 THE COURT: All right. Mr. Renn, Mr. Eggert, anything  
25 further for the defense?

1 MR. EGGERT: Just one thing, Judge. As you noted,  
2 there was a lengthy sidebar, and when this proceeding concludes,  
3 we'd ask if we can go back into the breakout room with Mr. Brown  
4 and advise him of some of the things that occurred.

5 THE COURT: Certainly. Let me ask you again, just for  
6 purposes of logistics, do you-all also want to use the breakout  
7 room to have a discussion with probation? I see probation was  
8 about to ask a question anyway.

9 Officer Waddle, is that what you were gonna raise, or do you  
10 have some other point you needed to make?

11 PROBATION OFFICER: We could do it tomorrow in person.  
12 If Mr. Renn and Mr. Eggert just want to call me and tell me if  
13 they'd like to do it before or after court, I can make it work  
14 out with the marshals so we can do that in person tomorrow if  
15 they prefer.

16 MR. EGGERT: Thank you. We would do that and thank  
17 you very much.

18 THE COURT: All right. Theresa, anything else?

19 DEPUTY CLERK: No, sir. Did you see my message?

20 THE COURT: Say it again. I'm sorry.

21 DEPUTY CLERK: Did you see my message?

22 THE COURT: Hang on for just a sec, please.

23 Quick question for counsel for both sides. Ms. Gregory, do  
24 you-all have a position on whether the sidebar or any part of it  
25 should be sealed?

1 MS. GREGORY: No, Your Honor.

2 THE COURT: Mr. Eggert? Mr. Renn?

3 MR. EGGERT: No, no, Your Honor, no position.

4 THE COURT: All right. So, Theresa, I believe the  
5 answer to the question is, no, it does not need to be under  
6 seal.

7 DEPUTY CLERK: Thank you.

8 THE COURT: All right. Thank you-all. We'll see you  
9 tomorrow, 1:00 p.m., in person in Louisville.

10 MR. EGGERT: Thank you.

11 MR. RENN: Thank you.

12 MS. GREGORY: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (End of proceedings.)

15 C E R T I F I C A T E

16 I am an official court reporter for the U.S. District Court  
17 for the Western District of Kentucky and certify that the  
18 foregoing is a true and correct transcript, to the best of my  
19 ability, of the above pages, of the digital audio recording  
20 provided to me by the Court of the proceedings taken on the date  
21 and time previously stated in the above matter.

22 s/ Dena Legg  
23 Official Court Reporter

May 3, 2022  
Date

24

25