

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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UNITED STATES OF AMERICA : No. 3:12CR105 (RNC)
vs. :
MICHAEL SMITH, ET AL, :
Defendants. : HARTFORD, CONNECTICUT
JULY 12, 2012
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STATUS CONFERENCE

BEFORE:

HON. ROBERT N. CHATIGNY, U.S.D.J.

Darlene A. Warner, RDR-CRR
Official Court Reporter

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2:00 P.M.

THE COURT: Good afternoon. This is the case of United States against Smith which is a 19 defendant drug case. One of the defendants, Mr. Henderson, is a fugitive, is that correct?

MR. SILVERMAN: That's my understanding, Your Honor.

THE COURT: Leaving 18 defendants.

This is a pretrial conference convened for the purpose of discussing how we should go about tackling a case like this. I will tell you at the outset that the largest number of defendants ever to go to trial in a case of mine was six, and two of them pleaded guilty I believe it was on the second day of trial, and my recollection is the jury deliberated as to the remaining four. So that's the most relevant experience that I bring to this discussion.

In light of that experience, it's my belief at this moment that that's the largest number of defendants I would ever take to trial. So one of the things that we need to be conscious of is the potential need to divide this group of 18 or 19 into more manageable segments, and I'd like to hear from the government on that.

1 I'd also like to talk about how much time it's
2 going to take realistically to prepare for what could
3 prove to be a series of trials, and I'd like to find out
4 from you what your availability would be to actually
5 conduct a series of trials.

6 There are some pending motions. Some counsel
7 have been filing motions for extension of time, and
8 there's a motion by the government for a protective order
9 regarding discovery, and some counsel have moved for
10 release of discovery materials directly to the defendants.
11 There may be, and I trust there probably are, other things
12 that we need to at least touch on today, but that's the
13 list of things I intend to take up with you.

14 I have a list of counsel. I don't think it's
15 necessary for me to ask you to state your appearances. I
16 believe that we have them, so I'll dispense with that and
17 I'll turn it over to Mr. Silverman.

18 MR. SILVERMAN: Thank you, Your Honor.

19 I think it might make sense to start with a
20 brief overview of the investigation that led to these
21 charges. And chambers has asked me to provide something
22 of an overview with respect to each defendant which I'm
23 happy to do to make this as informative as possible for
24 the Court and for those sitting here, my colleagues.

25 The Michael Smith indictment is one of several

1 indictments that were returned out of a long term
2 investigation that involved court authorization to
3 intercept wire communications and electronic
4 communications over 22 different target telephones over
5 slightly less than a one year period of time. So this
6 case, which is a large case, is also part of a broader law
7 enforcement effort that includes four other
8 multi-defendant indictments, none of which have been
9 assigned to this Judge, this Court, two of which are
10 pending with Judge Burns and two of which are pending with
11 Judge Bryant.

12 So to provide additional content, there's a lot
13 of material that has gone out, and I know that each of
14 these wonderful defense attorneys were hit with a packet
15 that contained about 22 disks, all of which had a lot of
16 information on them, so the discovery is voluminous in
17 this matter.

18 We've tried to create a specific disk per
19 defendant which would help streamline things a bit. And
20 actually just yesterday I sent an email to defense counsel
21 proposing dates to meet in the coming weeks, the end of
22 July and August, to help us target our efforts in
23 reviewing the discovery and beginning plea negotiations.
24 So we're on the road.

25 The government has two objectives of today's

1 meeting as well. One is to, as the Court put it, set a
2 realistic schedule, and the other is to seek the exclusion
3 of time under the Speedy Trial Act until the date of jury
4 selection is set.

5 These indictments were returned in May and today
6 is July 12. So we're still within the 70 days set by the
7 Speedy Trial Act, but the government is aware of that and
8 has that concern today as well.

9 By way of background for this case, there were a
10 number of telephones that were intercepted used by some of
11 the defendants named in this indictment. Michael Smith
12 and Robert Lee are the primary users of target telephones
13 that are named in this indictment.

14 The investigation revealed that Mr. Smith was
15 really the hub of a narcotics conspiracy; that he was
16 redistributing substantial weights of powder cocaine, half
17 kilogram or kilogram quantities that he had obtained from
18 various sources of supply, one of which is Karriem Peters,
19 a co-defendant in this case, and one of which is
20 unidentified. He would acquire the cocaine and then
21 sometimes sell it as cocaine or convert it to cocaine base
22 and sell it to other individuals. He used Robert Lee and
23 others named in this indictment as runners, as people who
24 helped him affect the purposes of his drug trafficking.

25 Mr. Smith -- all of the defendants are

1 charged -- I think all of them are charged in the
2 conspiracy count. There may be one exception to that. I
3 think all but Mr. Maurice Hammond are charged in the
4 conspiracy count. The remaining defendants are all
5 charged in the conspiracy count, and then there are a few
6 substantive counts.

7 Counts Two, Three, Four and Five all charge
8 Robert Lee with substantive counts based on controlled
9 purchases.

10 Count Six charges Ms. Rentas and Mr. Hammond
11 with a substantive count.

12 Count Seven charges Mr. Smith with a substantive
13 count.

14 And Count Eight charges Mr. Gary with a
15 substantive count.

16 Those subsequent counts all derive from law
17 enforcement actions or controlled purchases of narcotics.

18 To run through each defendant, and I'll take
19 this in alphabetical order in the hopes of providing the
20 government's views of the role of each person in the case.

21 It is the government's allegation that the
22 intercepted calls reveal that Anthony Brown was purchasing
23 about half ounce quantities of powder cocaine and/or crack
24 cocaine from Mr. Smith and then redistributing it as crack
25 cocaine.

1 Regarding Mr. Doughty, it's the government's
2 view that the investigation revealed he was regularly
3 purchasing some controlled substance from Mr. Smith for
4 redistribution. Likely eightballs or ounces, likely of
5 cocaine base.

6 Regarding Carnell Edwards, the intercepted calls
7 in the government's view indicate he was regularly
8 purchasing various controlled substances from Mr. Smith,
9 possibly 7 grams of cocaine base at a time.

10 Mr. Gary was also purchasing large quantities of
11 powder cocaine from Mr. Smith. And Count Eight against
12 Mr. Gary has to do with a car stop in which he was found
13 to be in possession -- he had arranged to purchase
14 approximately 42 grams of cocaine from Mr. Smith. There
15 was an attempted stop, which led to a chase. He was
16 apprehended, a small quantity of powder cocaine was found
17 to be in his possession.

18 The investigation initially revealed that
19 Ms. Gibson-Holland was regularly purchasing small
20 quantities of controlled substances. I've had ongoing
21 discussions with defense counsel, and I think we'll meet
22 later today regarding those discussions regarding some
23 issues that have been raised here.

24 Maurice Hammond is the only defendant not
25 charged in the conspiracy count. It's the investigation's

1 belief that he served as a source of supply to Ms. Rentas
2 who is charged in the conspiracy, but that he himself was
3 not otherwise connected to the conspiracy. There's one
4 substantive count, that's Count Six, in which Mr. Hammond
5 supplied Ms. Rentas who then supplied crack cocaine to a
6 cooperating witness and an undercover officer.

7 Regarding Shirrod Henderson, it appears that the
8 individual served as both a customer and a supplier for
9 Mr. Smith. At times when Henderson was out, Mr. Smith
10 would supply Henderson, and at times when Smith was out,
11 it appears that Henderson would supply Smith. So it seems
12 that that relationship worked both ways.

13 The investigation revealed that Melvin James was
14 also regularly purchasing controlled substances from
15 Mr. Smith for redistribution.

16 Nigel Jones was regularly purchasing cocaine
17 from Mr. Smith for redistribution.

18 Robert Lee served essentially as Mr. Smith's
19 right-hand man. He served as a runner selling cocaine
20 base to a variety of customers at Mr. Smith's direction.

21 Counts Two, Three, Four and Five, substantive
22 counts, are based on control purchases conducted of half
23 ounce or ounce quantities from Mr. Lee on April 21,
24 April 27, June 13 and July 19.

25 Mr. Mention also served as a runner for Mr. Lee

1 selling crack cocaine to a variety of customers at Mr. --
2 I'm sorry, Mr. Mention worked with Mr. Lee and Mr. Smith.
3 He was selling crack cocaine to a variety of customers at
4 the direction of both of them.

5 Anthony Moore looked at the outset of the
6 investigation had been supplying Mr. Smith with powder
7 cocaine and/or cocaine base. It appears that their
8 relationship flipped and Mr. Smith became a source of
9 supply for Mr. Moore as the investigation continued.

10 Mr. Nesmith was in regular contact with
11 Mr. Smith. They typically arranged to meet and for
12 Mr. Nesmith to purchase quantities of controlled
13 substances from Mr. Smith for redistribution. I believe
14 at least one of those meetings is captured on video
15 surveillance.

16 The investigation revealed that Karriem Peters
17 was a source of supply for kilogram quantities of cocaine,
18 powder cocaine, to Mr. Smith.

19 Ms. Rentas had served in a role of brokering a
20 narcotics deal between Robert Lee and an unidentified
21 source of supply. When Mr. Lee was not able to obtain
22 narcotics from Mr. Smith, he might turn to Ms. Rentas, who
23 I stated earlier had a source of supply in Mr. Maurice
24 Hammond.

25 Mr. Sanders regularly purchased controlled

1 substances from Mr. Smith for redistribution. Sometimes
2 he did so on credit. Often in 14-gram or half ounce
3 quantities of cocaine powder.

4 And Aaron York was working closely with Mr. Lee
5 hoping for an introduction to Mr. Smith. Later on in the
6 investigation, about January 2012, Mr. York began working
7 directly with Mr. Smith. He would purchase quantities of
8 cocaine for redistribution.

9 That's sort of a thumbnail. The sort of two
10 sentence overview of this is that Michael Smith served as
11 the center -- it's alleged that Michael Smith served as
12 the center of this conspiracy largely dealing with powder
13 cocaine and crack cocaine; that he used Mr. Lee and
14 sometimes Mr. Mention as runners; and that all of the
15 other defendants named in this indictment with the
16 exception of Maurice Hammond who is not in the conspiracy
17 count, were customers who purchased quantities of cocaine
18 or cocaine base that they then redistributed to other
19 individuals.

20 What I would offer at this point is a little bit
21 more of an overview of where we are in terms of the case.

22 Back in June the government sent out discovery,
23 as I mentioned. It was -- this first wave was quite
24 voluminous, typically consisted of 22 or so disks that
25 went out to each defense attorney. I understand from

1 recent email exchange that there have been some
2 difficulties listening to audio files on those disks,
3 experienced by some counsel but not others. The
4 government's I.T. folks are working to see what sort of
5 fix we might have to easily correct that. If there's no
6 easy fix, we'll have to find a way to re-burn these CDs so
7 the defense counsel can listen to the audio files.

8 I don't believe anyone has had a problem opening
9 any documents, which include the line sheets for the audio
10 calls, the wiretap calls, as well as the various law
11 enforcement reports and then all the T3 materials involved
12 in the investigation.

13 The government does expect to send out another
14 wave of discovery that would include any reports prepared
15 by the Drug Enforcement Administration after May 1. So
16 that goes through the date of the takedown. Some of the
17 defense counsel are awaiting those reports. Oftentimes
18 the arrests and the takedown date have significant
19 evidentiary value in these cases. We're working to get
20 those out as soon as possible.

21 And as I mentioned earlier, I'm hoping to meet
22 with each counsel individually to sort of get a lay of the
23 land and begin the process of whittling down this
24 indictment before we get to the point of a trial in this
25 case.

1 Before Your Honor came in today, I mentioned
2 briefly what the government's thoughts were on a realistic
3 timeline for proceeding to trial in this case and
4 solicited some feedback. Although I don't think everyone
5 had an opportunity to voice their opinion, I'll offer to
6 you now what seemed to be the government's view with the
7 input of some defense counsel, which is that the Court
8 could set a deadline for the filing of defense substantive
9 motions in the fall, October, November, government could
10 have one month to prepare an omnibus response to all of
11 those substantive motions, which would take us to November
12 or December, the Court could then have two or three months
13 to rule on any outstanding issues and hold any necessary
14 evidentiary hearings, and then a trial date scheduled to
15 start in the spring.

16 I think that's realistic in the sense that the
17 discovery is so voluminous. I think there will be
18 fruitful plea negotiations in the case and that all of it
19 will just take some time to keep the ball rolling.

20 That seemed to be okay with those defense
21 counsel who raised their hand earlier and spoke, but I
22 understand that some defendants may be pushing to move
23 sooner.

24 I know and the Court is aware that there's one
25 single speedy trial clock that applies in a case like

1 this. Although the Court has noted that there could be
2 the possibility of breaking up this indictment for
3 separate trials, and that's something we can certainly
4 talk about.

5 But that's the proposal from the government
6 anyway as to what would be a realistic timeline to allow
7 defense counsel a meaningful opportunity to review the
8 discovery and to allow the defendants time to review the
9 discovery in a meaningful fashion with defense counsel.

10 While on the subject of discovery, the Court
11 noted that there's a protective order pending from the
12 government and there's also at least one motion for
13 permission from the Court to release the government
14 materials directly to the defendant.

15 What we have in this case is -- especially given
16 the broader context that I started with and that there's
17 four other indictments that arose out of the same
18 investigation, all of which are multi-defendant
19 indictments -- is that I think there was something of a
20 crush of defendants who entered the Wyatt Detention
21 facility around the same time.

22 Attorney Richard Reeve, who is counsel not in
23 this case but in of the other cases arising out of the
24 other investigation, agreed to take the lead in providing
25 sets of the discovery materials to a custodian at the

1 Wyatt Detention facility to be maintained in the
2 custodian's care to be reviewed by the defendants in the
3 prison library. The Court has encountered this before in
4 cases where I've been before this Court. But the
5 government obviously has two concerns, and I think both of
6 them are clear in the motion for a protective order.

7 First, many of these materials are still sealed
8 per Court order, they're Title III materials, the line
9 sheets, the electronic surveillance materials, are all
10 still under seal, and there's a certain sensitivity that
11 comes with that by virtue of the fact that they remain
12 sealed.

13 Second, many of these materials have the
14 potential to reveal the identity of individuals
15 cooperating with law enforcement and the government is
16 always concerned that were the discovery materials to be
17 maintained in someone's cell, in someone's personal
18 possession rather than the care of a custodian, there is
19 the potential for intentional or inadvertent disclosure of
20 those materials that could jeopardize the safety and
21 well-being of other individuals. That's always a concern
22 that the government has.

23 In the past and in cases like this, the approach
24 that's worked has been to provide the materials to the
25 custodian at Wyatt so that clients may review them,

1 clients or defendants, can review them in the prison
2 library during sets hours. What I've heard from some of
3 the defense attorneys, and I'm not sure anyone here has
4 raised this with me directly, is that there's a long wait
5 time at Wyatt right now given the volume of discovery and
6 the number of defendants who are looking to review it.

7 I'm not sure that there is an easy answer to
8 this issue. One suggestion that I've had is obviously
9 that defendants should start with the disk specific to
10 them, which will have the material most significant at the
11 outset anyway. And obviously defense counsel can go out
12 to Wyatt and visit with their clients and spend time
13 reviewing discovery in that setting.

14 I don't think that's an ideal solution, I don't
15 think you'll hear from these folks that they're thrilled
16 with that prospect, but I'm not sure that there's an
17 easier way. And the government, to be clear, objects to
18 the provision of the discovery materials directly to any
19 of the defendants. The prospect of that just seems to
20 carry so much risk to the government.

21 I think that's where we stand with discovery
22 with respect to those individuals incarcerated at Wyatt
23 right now. There are also some individuals in state
24 custody.

25 The government has no objection to the same

1 approach in state custody, requiring defense counsel to
2 work with an appropriate custodian at the facility to
3 ensure the discovery materials could remain with that
4 individual and be reviewed by the client in their
5 counselor's office or in that facility's library.

6 And finally, there are some defendants who are
7 not incarcerated. I may be incorrect in this, but it
8 seems to me that that might be the easiest situation, that
9 that individual could review the materials at their
10 lawyer's office at a mutually convenient time.

11 So obviously this is not a perfect world in
12 which we're dealing and I would prefer that Wyatt had many
13 more counselors and many more computers to allow the
14 review of discovery, but I think this is where we stand
15 and I think we can set a schedule which will allow the
16 government time to help focus defense counsel on certain
17 aspects of discovery and for defense counsel to help focus
18 their clients on certain aspects of discovery, which will
19 allow sufficient time for a really meaningful review prior
20 to the filing of defense motions and trial in this case.

21 I don't have any other prepared remarks, but I'm
22 happy to answer any questions from the Court or respond to
23 any concerns defense counsel wants to raise at this time.

24 THE COURT: Thank you.

25 MR. SILVERMAN: Thank you, Your Honor.

1 THE COURT: I propose to give each defendant an
2 opportunity to be heard today through his or her counsel,
3 and I'll proceed in the order of the list which I think
4 corresponds to the indictment. We'll start with counsel
5 for Mr. Smith.

6 MS. POLAN: Good afternoon, Your Honor, Diane
7 Polan for Mr. Smith.

8 Your Honor, I've just entered my appearance in
9 this case about a week ago in lieu of Attorney Resetarits,
10 and I had a conversation with Attorney Silverman the other
11 day which I thought was a productive conversation, and
12 then I got this envelope of the 22 disks from Attorney
13 Resetarits maybe a day or two ago.

14 This is my concern, Your Honor: You've heard,
15 and I have as well, and everybody else has, that my client
16 is the hub of this alleged conspiracy, so I would assume
17 that there are many, many conversations involving him. I
18 want to just talk a little about the issues at Wyatt, Your
19 Honor.

20 I understood that Attorney Reeve, on behalf of I
21 guess an agreement in one of the cases in front of Judge
22 Burns, had been given a set of all the discovery. And
23 just so the Court knows, when you get one of these CDs, it
24 has tape recordings from five different cases. That's
25 what it says on it. And you have to kind of sort through

1 what's your case.

2 So he took -- Mr. Reeve hand-delivered a set of
3 all this discovery with a very detailed letter up to
4 Wyatt. And the person who's the program manager is a
5 woman named Jean Singleton. She's in charge of being the
6 custodian and making these materials available.

7 So I took it on myself to call Ms. Singleton the
8 other day in preparation for this conference and I
9 actually was able to reach her, which is often difficult,
10 and she indicated to me, as I think other counsel had, no
11 one has been given access to those materials.

12 They've been up at Wyatt. I hand-delivered them
13 on June 25, I believe, if that was a Monday, or perhaps it
14 was the 28th, a couple weeks ago, but no one has been
15 given access to them. And some people have asked their
16 counselors, they know from their lawyers that the
17 materials are there and the counselors have said they're
18 not ready yet.

19 When I talked to her Tuesday, she said that they
20 have four to five computers, one doesn't have audio. So
21 they have four. They're not really in the library
22 anymore, they're in the hallway, so there's not even that
23 much privacy. They allocate three days a week of the
24 Monday to Friday week for people in general population and
25 two days for people in what they euphemistically call the

1 transition unit, which are people who have a gang
2 classification or in protective custody. So the universe
3 is either three days or two days.

4 Because the government chose to indict so many
5 people in these related indictments -- I believe they
6 picked up 105 people in a couple of days, plus all the
7 people in the other two indictments -- Wyatt is
8 overwhelmed.

9 And it's not just the problem for the
10 defendants. There are no visiting rooms. They added an
11 800 bed addition and they didn't increase the visiting
12 rooms. There are five visiting rooms. The last two times
13 I've gone up there, I've had to wait over an hour.

14 So it's not realistic that we'll go over and sit
15 and go over this with our clients. We can't get into the
16 rooms, same problem.

17 So the government chooses to indict an enormous
18 number of people, opposes release for 98 percent of them,
19 and then says, you know, well, we're sorry, you should
20 toll the time. And I think the Court needs to find, you
21 know, another solution.

22 And I suggested to Mr. Silverman we try to find
23 a compromise about these materials. I understand that
24 they have legitimate security concerns about some of the
25 materials, but I don't think that is all of the materials

1 they've given to us.

2 Some of these things are search warrants,
3 they're not sealed documents. Some are DEA surveillance
4 reports. Some are Title III applications and affidavits
5 and orders. And then there are the conversations
6 themselves and what I'll call the line sheets, the
7 preliminary transcripts.

8 So I think there needs to be some compromise
9 about what the defendants can have access to, because all
10 of these defendants have rights. They have Constitutional
11 rights to have a trial. And I know the government thinks
12 that, you know, of course 100 of a 105 people will plead
13 guilty, and that's probably true, but they can't make an
14 intelligent decision whether they want to plead guilty or
15 go to trial without having access to the evidence
16 themselves.

17 I just was in a trial in front of Judge Burns
18 where my client wanted to listen to every single tape
19 recording, not just the ones on his pertinent calls, I
20 mean, and that's his right. And he, I know, very clearly
21 educated me about that. If I'm in a conspiracy, I want to
22 listen to everything. I want to listen to everything that
23 shows I'm not in a conspiracy, you know, that would negate
24 that.

25 So that's really what I got up to say is try to

1 give the Court some sense of what's going on up at Wyatt.
2 When they let people listen to the tapes, they have a
3 morning and an afternoon session. Either they'll let the
4 person go from say 8:30 to 10:30 or else from 1:30 to
5 3:30. So they get two hours.

6 A client I had up there, he had been given
7 access three times a week to go into the library and
8 listen to evidence, and then when all these people came
9 in, it went down to once a week. Ms. Singleton couldn't
10 tell me how long it was going to be until any of these
11 people had access. She did tell me if it was paper, all
12 of these CDs include paper documents as well, but if there
13 was actually paper and they had multiple sets of them,
14 they could allow more people to access the paper.

15 And I'm not saying that's really the solution to
16 this problem, but that's one part of the problem. I mean,
17 all of the documents that are now on CDs could be reduced
18 to paper and sent up there perhaps by the government or
19 somebody.

20 The other concern I have, after listening to
21 Attorney Silverman talk about some of the lawyers have had
22 problems listening to the audio, we don't know if the
23 defendants are going to be able to listen to the audio
24 because none of them have even tried.

25 I don't object to having a schedule where we set

1 a trial date in the spring and we set a date for filing
2 motions for November, but I really don't want to be back
3 in front of Your Honor on October 1 and say my client's
4 had a total of ten hours since July 12 and this isn't
5 working.

6 THE COURT: I appreciate your comments and I
7 also appreciate your concerns. Do you have any
8 suggestions as to what a workable compromise might be?

9 MS. POLAN: Well, I think I'd like an
10 opportunity to talk to some of the other counsel and I'd
11 be happy to, Your Honor, if we took a short break at some
12 point.

13 THE COURT: Okay. Then let me hear from counsel
14 for Anthony Brown, please.

15 MR. SULLIVAN: Good afternoon, Your Honor,
16 Robert Sullivan for Mr. Brown.

17 First of all, Ms. Polan really laid it out in
18 terms of what the incarcerated defendants are dealing
19 with.

20 My client is sort of a mixed bag. On the one
21 hand, he's out. On the other hand, the reason why he's
22 out is because he is, I believe, a double amputee, he's
23 blind, he has at least two catheters, he's in and out of
24 medical facilities. He's a very, very sick man. He lives
25 in sort of an elderly type of a home. It's not a

1 convalescent home, but an elderly sort of structure in New
2 Haven, and there's simply no way he'd ever be able to come
3 to my office nor would there be a place in my office where
4 I could put him day after day after day to try to listen
5 to audio.

6 So I would -- my remarks will be trimmed way
7 down based on what Ms. Polan had to say. I'll join with
8 her and the others to see if there is a solution, but I
9 don't have the same problem that these others have. My
10 client is not sitting in custody, but we do have to come
11 up with a solution for how to review this audio.

12 I'm one of the ones, click on the audio file and
13 it doesn't do anything. And I know the government is
14 trying to work that out, but my set is basically useless
15 to me as it stands right now. The text files we can read
16 but the audio files we cannot.

17 THE COURT: Thank you.

18 Counsel for Frank Doughty, please.

19 MR. EINHORN: I'm sorry, John Einhorn, I'm
20 covering for Audrey Felsen, and I've got others to cover
21 for too, Your Honor, so maybe I'll just speak now and make
22 it brief.

23 I share Attorney Polan's comments and I've
24 spoken with Jean Singleton about this too. In addition to
25 the indictments that Mr. Silverman has mentioned, as Your

1 Honor knows, there's other multi-defendant cases that are
2 assigned to other judges and so all those people are
3 together, and the crush at Wyatt is really overwhelming.
4 It's not just the four cases that were mentioned here,
5 it's others. And the net result is I have clients
6 probably in each one of these cases and they all say the
7 same thing, and that's why I made the motion Your Honor
8 has before you for release. They just can't get access to
9 the documents and they can't listen to anything and
10 they're very frustrated. And I can't say I blame them.

11 My concern is that, first of all, I think it's
12 clear that what the government did in this case, and many
13 of the other indictments, which is just indict way too
14 many people. And if they want to do that, which is their
15 prerogative, it's not necessary to keep in custody people
16 like my client and many of the other people who are just
17 alleged to be street people. It's not necessary.

18 And I understand in a smaller case, and the
19 government can do it, and they put pressure on people and
20 they plea for whatever reason, but here the government is
21 essentially -- it's made its bed by raising these huge
22 indictments and being unable to supply the discovery and
23 basically saying to the Court, well, you deal with it,
24 Judge, you know, you figure out a way so that they still
25 have their Constitutional rights and we can indict all

1 these people.

2 My suggestion, there's a couple of things.

3 First of all, it's not the first time we've
4 encountered a similar problem, but never anything of this
5 magnitude, but one of the things we've done in the past is
6 release some documents and have the government go through
7 and decide specifically what things might lead to
8 jeopardizing an informant, and clearly not everything
9 does. So some things could be released directly to
10 clients without any fear whatsoever. Some maybe not, and
11 maybe they could be dealt with separately.

12 Secondly, I do think we should have a whole host
13 of bond hearings, and I think the government ought to
14 understand that and take a little different look at people
15 as to release in hopes that we can, as was suggested, let
16 them come to our office and spend days there, if they
17 want, looking through discovery.

18 We were -- and one of the other multi-defendant
19 cases, I've got a gentleman from the Second Circuit, Jerry
20 Tritz came down and he said, "You guys don't have to go to
21 Wyatt to sit there for hours or days with people. It will
22 cost a lot of money. Just send your paralegal." Well,
23 that sounds nice and it might work in state facilities,
24 but Wyatt doesn't allow that either.

25 So we're forced into this situation where if the

1 client can't listen or view documents at Wyatt, we've got
2 to do it, and although I'd like to be able to at least let
3 my investigator do it, but that too is going to be
4 expensive, and I'm not sure how the Second Circuit is
5 going to feel about that.

6 I don't agree with the concept of having one of
7 us just submit a master set to Wyatt, and the problem is
8 the logistics. My understanding is there's only three
9 working computers. They're sitting in a hallway at Wyatt
10 and it's so difficult to get access to those. There's
11 only one set out there, and maybe two people from the same
12 case want to look at it. Somebody's out of luck.

13 So I think each defendant ought to be given a
14 full set, or at least not delegate this to, as was done --
15 discussed before with Mr. Reeve. I disagree with that
16 procedure totally.

17 But I think it's a frustrating situation that
18 was brought on by the government. I don't think that it's
19 fair, for example, for my client -- well, at least
20 Mr. Sanders is my client in this particular indictment --
21 for Mr. Sanders to sit in jail until next April merely
22 because the government just -- there's just no facility to
23 give him an honest chance to look at his discovery. It's
24 not fair to him.

25 I think that in a -- to be realistic, the

1 government should be held -- its feet ought to be held to
2 the fire, and I think if they can't come up with a way to
3 provide discovery, maybe moving people around. But
4 certainly if they're just relying on the business of
5 shuffling hundreds of people into Wyatt on what really I
6 think is more like six multi-defendant cases than the four
7 that were mentioned here, it's just not going to work.

8 And for Mr. Sanders to sit around and wait in
9 Wyatt until April and maybe occasionally looking at his
10 discovery and having me, of course, discuss relevant
11 discovery with him, it's not fair.

12 THE COURT: Mr. Einhorn, what are you suggesting
13 when you move for release of the discovery directly to
14 your client? What specifically would that entail?

15 MR. EINHORN: I would like to have an
16 opportunity to have the government respond to it and
17 indicate exactly what are the documents -- what is the
18 discovery that might jeopardize somebody. And if they can
19 do that, then perhaps those pieces of discovery could be
20 segregated out and we could hold those for this discovery
21 snafu at Wyatt. But everything else ought to be directly
22 sent to the client.

23 THE COURT: And with regard to what we mean when
24 you say "everything else," very specifically, are you
25 talking about hard copies of transcripts of recorded

1 conversations? Are you talking about disks that the
2 person would need a machine to listen to? What
3 specifically are you talking about?

4 MR. EINHORN: Specifically I'm talking about
5 hard copies. Actually, the government in other cases, and
6 I can't speak for them, has agreed to this. Where in
7 cases where there was a hard copy of calls that only
8 related to his client and didn't jeopardize informants or
9 police work, it should be sent to them.

10 THE COURT: So you're saying the government
11 should transcribe all the conversations that were captured
12 during the course of this investigation and provide a hard
13 copy of each transcript of every conversation to each and
14 every defendant?

15 MR. EINHORN: It was the government's choice to
16 indict these people and they should be ready for trial.
17 If Your Honor said to them, "I'm going to hold your feet
18 to the fire under the speedy trial clock. Mr. Einhorn
19 wants a trial in September, I'm going to give him a trial
20 in September," they'd have to transcribe them anyway for
21 trial.

22 They've chosen to bring this. They ought to be
23 ready to go.

24 THE COURT: Again, just to be clear, what you
25 have in mind is your client receiving transcripts of

1 recorded conversations that may be redacted with regard to
2 any information that truly is of a sensitive nature
3 justifying sealing. That's what you have in mind.

4 MR. EINHORN: Actually even more liberal than
5 that, because unlike Ms. Polan's client, in this case I
6 would be willing to settle just for the sheets that relate
7 just to my client. The other hundred and some odd
8 defendants' calls aren't really that interesting to this
9 defendant in this case. I think his are about so thick.
10 (Indicating). So I think I could limit it even further.
11 I don't think it's necessary to give my client, in this
12 case anyway, the thousands of pages that would relate to
13 every single one of the 19 or 18 defendants.

14 THE COURT: You make that statement on behalf of
15 Mr. Sanders?

16 MR. EINHORN: I do. I've spoken with him on
17 this point, and that's what he's looking for, just the
18 ones that relate to him.

19 THE COURT: Thank you.

20 You want to be heard?

21 MR. HASSE: Yes, Judge. I represent Nigel
22 Jones. He's down the list but I have to be on the phone
23 with Judge Bryant in about 15 minutes.

24 As soon as I got this, I sent all these up to
25 Jean Singleton with a letter and I put in the letter tat

1 it was important that my client listen to these CDs so he
2 could make decisions about his case. The next day my
3 client was able to listen to the CDs and listened to all
4 his calls and had quite a discussion with me.

5 So maybe that just because this whole thing that
6 was sent for everybody to listen to has some logistical
7 problems -- I mean, it's a job, but it doesn't take that
8 long to copy the CDs in a computer while you're doing
9 other work. And it really did work and he got access to
10 all the discovery.

11 I can also print whatever I want, send it up to
12 Jean Singleton, too, and she'll keep it in a box. I sent
13 her literally boxes of paper with all the discovery I
14 could print. And my clients have gotten those, and a
15 couple years later they call you and ask you to pick up
16 the stuff and take it back, so they're very careful with
17 that stuff.

18 In terms of access to the clients, it is a
19 problem, if you go middle of the day, you have to wait for
20 a room, but if you go real early in the morning or on
21 Sunday, you can get a room.

22 I think the government could look at some of the
23 stuff and certainly anything off CM/ECF should be able to
24 go directly to the client, and some of the printed stuff
25 maybe we can decipher what's confidential and what's not.

1 But anyway, if the client is given this stuff to
2 look at in a room through Jean Singleton individually, I
3 think it may work better than this group approach.

4 THE COURT: Thank you.

5 MR. SILVERMAN: If I could respond very briefly
6 to some of the comments that have been raised?

7 The government has no objection to the type of
8 approach just outlined in which a copy of the materials
9 are sent for a specific client directly to the custodian
10 to be maintained by the custodian at Wyatt and reviewed
11 with the client at the custodian's convenience. That's
12 perfectly acceptable to the government and strikes that
13 balance.

14 THE COURT: I would think that would be because
15 it doesn't cause the government any burden at all. I
16 mean, if you're not agreeable to that, Mr. Silverman,
17 we're in for real problems.

18 MR. SILVERMAN: But the government is perfectly
19 agreeable to an approach in which a copy of all the
20 materials are sent for each defendant to be maintained by
21 the custodian there.

22 THE COURT: Okay.

23 MR. SILVERMAN: The government's concern is once
24 the materials go back into the client's cell and when
25 they're there, whether it's intentional or inadvertent,

1 people including some of the defendants in this case who
2 have an interest in speaking with the government down the
3 road, their safety and well-being becomes an issue at that
4 point.

5 So the government's concern here is really that
6 the materials be maintained by the custodian to be
7 reviewed by the defendants at appropriate times but never
8 to be brought back to their cell to be held by them
9 individually.

10 THE COURT: Are you prepared to provide Wyatt
11 with more computers that would enable the defendants to
12 listen to these things?

13 MR. SILVERMAN: I don't even know that Wyatt
14 would have the capacity to take the computers, and I don't
15 feel comfortable at this time to speak to the government's
16 resources if it could provide such facilities.

17 In terms of paper copies, I know defense counsel
18 could print out, as Mr. Einhorn just indicated, the stack
19 is only so thick. For his client if he wanted to provide
20 those materials directly to Ms. Singleton to be reviewed
21 by Mr. Sanders, the government would have no objection.

22 The concern is when the papers go back to the
23 defendant's cell. Then the issue arises and it becomes a
24 real concern for the government.

25 But the proposal that the government has been

1 advocating all along would be that the discovery materials
2 be with the custodian and maintained in their care but
3 available to the defendants to review, obviously in the
4 context of these constraints that exist at a facility like
5 Wyatt. But to the extent that they can be reviewed as
6 often and frequently as possible, if that's facilitated by
7 having many, many paper sets, the government has no
8 objection to that.

9 It's my understanding that there's more than one
10 set of all the disks there now and we have no objection to
11 defense counsel sending additional sets of all of the
12 disks, as long as those sets are sent to the custodian.

13 THE COURT: Let's see if we can't gain
14 clarification of the nature and extent of the government's
15 concern.

16 Imagine that we have a complete set of
17 transcripts of every conversation. What percentage of
18 that material do you think could properly be sealed by the
19 Court based on the government's security concern?

20 MR. SILVERMAN: Your Honor, it's my
21 understanding that under the wiretap provisions in the
22 United States Code, all of those transcripts are sealed by
23 the Court and remain under seal by the Court, that's in
24 keeping with the idea that we seal our recordings after 30
25 days, and any transcripts of those recordings get sealed

1 at the same time.

2 So it's my understanding that all of those
3 already are sealed by the Court.

4 THE COURT: I'm using the term to refer to the
5 material that you would like me to keep from the
6 defendants.

7 MR. SILVERMAN: I think there are concerns that
8 arise in terms of the potential for defendants to realize
9 individuals who are cooperating with law enforcement in
10 many of those calls, clearly not in all of those calls.
11 Many of the calls are between the co-defendants during the
12 course of the conversation.

13 To parse them out though is a difficult, very
14 difficult task. It's one that perhaps at individual
15 meetings defense counsel and I could undertake, the
16 meetings that I proposed we set up already, and we can sit
17 down and see if there are calls that would be appropriate
18 to be produced at that time sitting together having the
19 views of both sides at the forefront.

20 It's not something where I think the government
21 could just go through and say let's print batches and
22 batches of these calls. There are preliminary line sheets
23 for all of the conversations that should be accompanying
24 each of the wave files that some counsel can listen to and
25 some are having difficulty with already.

1 So the issue is not actually producing those
2 transcripts with the understanding that they are
3 preliminary and were we to head to trial, we would have to
4 go back through and clean them all up to create final
5 versions. But there are already preliminary transcripts
6 in existence of these audio calls.

7 The concern is these are T3 materials and so
8 they remain under seal. Some of them have the potential
9 to jeopardize individuals cooperating with law
10 enforcement. Some don't have that potential. They're
11 directly between defendants in this case or others.

12 I think, just to drive this point home, the
13 proposal that was raised in which defense counsel could
14 print out a copy pertinent to their client and send that
15 to the custodian's care, might go a long way towards
16 allowing more ready access to these defendants to the
17 materials and also alleviate the government's concerns
18 that these materials could be leaked, whether
19 intentionally or inadvertently be disclosed to the
20 population. That might be an initial approach we could
21 try and come back to the Court later if there continue to
22 be issues that arise.

23 So if I have not been clear, I suppose that the
24 government's view here is that for the discovery materials
25 to be maintained in the custody of Ms. Singleton or

1 another custodian is fine. Our concern happens and really
2 arises when copies of those materials are now being taken
3 back to the cells to be reviewed there.

4 THE COURT: It sounds like we're asking an awful
5 lot of Ms. Singleton. Who is she? What is her position?

6 MR. SILVERMAN: It's my position that she serves
7 as a custodian at Wyatt and largely deals with issues like
8 this.

9 THE COURT: She's employed by Wyatt?

10 MR. SILVERMAN: Yes. That is my understanding.

11 MR. EINHORN: I forgot her exact title, but she
12 seems to supervise. She's program director, but she's
13 more than that.

14 She's been counsel dealing with Wyatt. For
15 years she's been the point person and problems that arise.

16 For example, if Your Honor said you need to call
17 your client immediately at client, she would set up the
18 call. She would handle issues that might come up.

19 So she's always been the point person who's
20 taken responsibility for these things.

21 MR. SILVERMAN: There's one other brief point
22 the government would like to make and it has to do with
23 Attorney Einhorn's reference to bond issues here.

24 A number of defendants have filed motions for
25 pretrial release. The government has, as far as I know,

1 attended the hearings that have been scheduled. I don't
2 think we've let any of them slip through the crack. There
3 are some that remain pending across the various
4 indictments.

5 But should defense counsel be seeking pretrial
6 release, and they have the right to do that, the
7 government would be prepared to take a position and either
8 continue to seek pretrial detention or come up with a
9 package that appropriately addresses the risks of flight
10 and dangerousness to the community.

11 Some defendants are out. Many of them
12 stipulated to detention without prejudice at the time of
13 their initial appearance, and I haven't heard differently
14 from them or defense counsel since then.

15 MR. EINHORN: That's not my point, Your Honor.
16 The point is that -- and I had a hearing for
17 Mr. Sanders -- the government has taken as hard line a
18 position as they could take on release, and I'm suggesting
19 they should take a softer line considering they put all
20 these people in there and now they're unable to be
21 prepared for trial.

22 By rights they should be ready to go to trial
23 when they brought this indictment, and apparently they're
24 standing here before Your Honor this afternoon saying
25 they're not ready to go to trial, and that's why I think

1 they ought to take a different position on release.

2 MR. SILVERMAN: If I've given the Court the
3 impression that the government would not be prepared for
4 trial, I'm sorry for that. If a trial date is set, the
5 government would be prepared to go forward.

6 MR. EINHORN: Fine. Would Your Honor set my
7 client for the earliest possible trial date? I am
8 prepared for trial and I would request the required
9 disclosures under the Local Rules and so forth. I'm
10 available in August to start if Your Honor would wish to
11 set that date.

12 MR. SILVERMAN: As the Court is aware, there is
13 one single speedy trial clock that would apply, though, to
14 all of the defendants in this matter.

15 THE COURT: Meaning?

16 MR. SILVERMAN: Meaning that if other defendants
17 had motions pending, that would toll the speedy trial
18 clock for any particular defendant in the matter.

19 THE COURT: But how does that respond to the
20 concern that Mr. Sanders has about having a trial
21 promptly?

22 MR. SILVERMAN: I believe the Second Circuit has
23 already addressed similar issues in which defendants in
24 one multi-defendant case some have wished to move sooner,
25 some have wished to move later, and the Second Circuit has

1 held that there is one single speedy trial clock for all
2 of those defendants.

3 However, Attorney Einhorn and I should clearly
4 meet and discuss these issues and sort out whether there
5 are some things we should take care of.

6 THE COURT: You have over a hundred people in
7 these four cases?

8 MR. SILVERMAN: Across five indictments there
9 are approximately 100 defendants.

10 THE COURT: Has Judge Burns issued any rulings
11 that are pertinent to what I'm being asked to consider
12 now?

13 MR. SILVERMAN: Judge Burns granted the motions
14 for protective order filed in the two cases assigned to
15 her. We have a status conference scheduled July 25, I
16 believe, in both of her two cases, to set a schedule for
17 trial.

18 Judge Bryant has held a status conference and
19 there are currently trial schedules proposed that would
20 set deadlines for motions, defense motions, in September,
21 government responses in October.

22 One of her two cases for jury selection in
23 January, the other for February.

24 THE COURT: All right, thank you.

25 MR. SILVERMAN: Thank you.

1 THE COURT: Counsel for Carnell Edwards.

2 Mr. Furniss, you're covering for Mr. Donovan?

3 MR. FURNISS: Yes, I'm sorry. I did say that.

4 I'll just make my comments with regard to Mr. Moore whom I
5 represent.

6 THE COURT: Okay. Then next on our list is
7 Marty Edwards.

8 Mr. Ahern is not present.

9 MR. WALKLEY: Your Honor, I will -- John Walkley
10 for the record. I was asked or I should say I volunteered
11 today with the government that I would cover the
12 proceedings for Mr. Ahern, but I haven't spoken to him
13 about any specific issues.

14 THE COURT: Thank you.

15 Tyrell Gary.

16 MR. ASPINWALL: Good afternoon, Your Honor, Tim
17 Aspinwall for Mr. Gary.

18 Your Honor, one very quick comment that I would
19 have. I looked around, there are other counsel here from
20 southern Connecticut, and on a good day from my office to
21 Rhode Island is two hours and two hours back. Add traffic
22 to that, you're looking for five hours out of your day
23 just in the car.

24 The Marshal's Office as well as Wyatt has gone
25 hot and cold on this over the years, but I think with a

1 little pressure from the bench perhaps we could get some
2 cooperation. The van's coming to Bridgeport, the van's
3 coming to New Haven, could we put two or three more bodies
4 on those vans so that counsel, all counsel, could have
5 more access to their clients rather than wasting five
6 hours in the car back and forth with their clients?

7 The issues come up before over the years and I
8 think that if collectively the bench put some pressure on
9 Wyatt and the Marshal's Office, I think we could get
10 somewhere with the issue.

11 MR. SULLIVAN: Your Honor, I don't know if the
12 Court is interested in what I have to say about that.
13 This is Bob Sullivan again.

14 There was a time up until about a year ago when
15 I took great advantage of that. They would actually -- if
16 you called the Marshal's Office, they would agree to put
17 bodies on the van. About a year ago there was a
18 proclamation that came down from the Marshal's Office that
19 they were no longer going to do that for anybody
20 including, the government, probation, nobody. So it
21 became an official policy of the Marshal's Office that
22 they weren't going to do that. I don't know if that's
23 changed any in the last year or so, but that's the last I
24 heard.

25 And if there could be some -- from my office,

1 which is Westport, it's easily two and a half hours. It's
2 a whole day if I have to talk to my client for ten
3 minutes. It is a huge problem. Just finding a block of
4 time to go talk to the client is a problem.

5 But that was a solution where we could actually
6 have them brought up on any given day and it would save us
7 transportation. I don't know why the marshal won't do it
8 anymore, but it was the official policy about a year ago.

9 MR. FILAN: Good afternoon, Your Honor, Jim
10 Filan on behalf of Eric York.

11 My understanding is the marshals have changed
12 that policy. They brought somebody down from Wyatt for me
13 today which was helpful. I'm coming from the Danbury area
14 and I'm three hours in each direction with traffic, and if
15 you've got three or four clients there who all demand to
16 be seen when you're up there, it's -- it can be very
17 difficult to accomplish a great deal when you're up there.

18 And while the marshals are bringing people down
19 and have done that for me, it's through the screen, you
20 can't show them documents, it's very difficult. Just
21 getting a pen to the person on the other side of the
22 screen takes ten minutes. It's just -- in some ways it
23 can be very unworkable situation.

24 And by the time you get up to Wyatt and you're
25 sitting around for an hour filling out the forms to get in

1 there, waiting to see the people, it's a 12, 14 hour day,
2 and you're not getting a lot accomplished when you're up
3 there.

4 So I do know that the marshals at least have
5 loosened that up. Judge Hall has done that. But again we
6 still have the problem with getting access.

7 I have a mortgage fraud case that's going to
8 trial in September, 40,000 documents that we sent up. A
9 lot of the disks to my client at the beginning of June,
10 beginning of July, he still had not -- I hand-delivered
11 them -- he still had not had gotten access to them, and
12 it's because of the bulk of materials in this case. So
13 we're obviously running into serious problems.

14 Now my client is on 28 calls. That's 28 pieces
15 of paper. It's not an awful lot, and I know I'm speaking
16 out of turn, but I wanted to address Mr. Sullivan's
17 issues.

18 But I'd like to know if the government's
19 position is that we can only give them the line sheets or
20 are we able to put with the custodian hard copies of all
21 of the master discovery that we have so that if something
22 comes to our client's attention, they have an opportunity
23 to actually look at it and accomplish something there. Or
24 are we just -- is the government's position that we just
25 give them the transcripts of the calls? Because I'd like

1 to be able to give them, you know, everything, in the
2 custodian's -- you know, in the custodian's care.

3 MS. SADIN: If I may join Mr. Filan, and
4 speaking out of turn? I represent Shawn Mention, and I
5 just want to be clear.

6 Having the marshals -- it is -- it does help
7 with the amount of time that counsel have to spend, and
8 while my colleagues and I sympathize with each other, our
9 greater concern is our clients. And it does not help our
10 clients if they are transported here only to be in the
11 same position they are at Wyatt with respect to having
12 access to discovery materials and being able to confer
13 with counsel in a meaningful way. So that bringing them
14 down here does not increase the access to computers, to
15 the written discovery materials.

16 And while I understand that the government would
17 like to resolve this by having Ms. Singleton sort of
18 supervise all of this, no matter how many Ms. Singleton's
19 you may have, there are still only four computers.

20 MR. FILAN: And when I talk about the marshals,
21 you know, changing their policy and helping people out by
22 bringing them down, it doesn't -- it does help us, but it
23 also requires that our clients are up at 4:00 in the
24 morning and making sometimes several stops before they get
25 here. And their ability to focus on some of this stuff

1 sometimes when they don't even know they're coming because
2 we can't get word to them, it can be very unworkable.

3 It's very difficult to try to get up there to
4 get anything meaningful done, to schedule a time to go up
5 there and then to find out that the person, because of
6 some kind of a malfunction, was not able to get access to
7 the material.

8 And there's something else that really hasn't
9 been addressed. We're people that are in front of
10 computers all the time and we're in front of computers at
11 work all the time usually, and these are -- our clients,
12 frankly, are not. And so when they get up there, it's not
13 like they can just jump into Adobe and pull up a pdf
14 document and start scanning it and know where to go.
15 There is a lot of gear-up time for these people to really
16 understand what they're doing, which just adds to the
17 burden.

18 And so when they see it, they're not even sure
19 what they're looking for and we're not there to help them.

20 THE COURT: Thank you.

21 The next defendant on my list is Yolanda
22 Gibson-Holland.

23 MR. RUECKERT: Good afternoon, Your Honor,
24 Morgan Rueckert.

25 I think what I'm hearing is common frustrations

1 that we've all had as criminal defense attorneys
2 representing federal defendants in Connecticut, and I
3 think it's just all very much exacerbated when there's
4 this many defendants by having the clients housed two,
5 three hours away, not being able to give them copies.
6 These are problems that have been ongoing. So I agree
7 with Attorneys Einhorn and Polan and Aspinwall and Filan,
8 with everything that they've said.

9 In this particular case, my client is out, but
10 that said, she's out and she lives in New Haven and I'm in
11 Hartford and in many of these appointed cases,
12 transportation for these clients is not as easy as, you
13 know, just getting in a car and driving 45 minutes.
14 That's a much different proposition.

15 So if there were a way to differentiate among
16 the discovery to make it so that we could give them some
17 of it, and the discovery comes in, there's audio
18 recordings, there are the line sheets, there are
19 surveillance reports and, you know, the affidavits for the
20 applications and the warrants and things that most people
21 look at.

22 I think certainly some of the reports of the
23 control buys where they're talking about informants and
24 certain days, you know, those are things that could be
25 used to identify who the cooperators are. But for many of

1 these materials, I don't think there's a legitimate
2 concern of revealing information that could harm someone.

3 So I think, in fact, much like any party would
4 have to do in a civil case is designate what documents
5 that are highly confidential, and that way we could reduce
6 the volume of the discovery that is problematic, because I
7 know that all the clients that I've had, they want to look
8 through the stuff, and I don't think there's any solution
9 to, other than more computers, to listening to the audio.
10 That's a problem.

11 I have one federal client who is a state inmate
12 and they don't even have a computer in the facility. So
13 it's just -- that's not something that we're going to fix
14 here, and we just have to accept that. With respect to
15 listening or what's on the call, we have to rely on the
16 government's transcripts of those.

17 And so I think that if we could force the
18 government to designate which documents are highly
19 confidential, I think that would facilitate this greatly.

20 THE COURT: Thank you.

21 Maurice Hammond. Mr. Einhorn, you're covering
22 for Mr. McIntosh?

23 MR. EINHORN: Yes, Your Honor. I've already
24 spoken. Thank you.

25 THE COURT: Melvin James.

1 MR. HARMON: Yes, Your Honor, Gerald Harmon.
2 Good afternoon.

3 I have experienced some of the same concerns
4 that the other attorneys have in terms of going up to
5 Wyatt, waiting two or three hours to get into a room
6 because of the number of people that are there. In terms
7 of me getting there earlier than 9:00, to do that I would
8 have to leave my house at 6:30. That's not my favorite
9 time to leave.

10 In terms of the access, my client told me that
11 they have a waiting list that he's signed up to in terms
12 of materials, and he said they told him it's going to be
13 two to three weeks before he would actually get to go in
14 and use the computer himself and see the materials.

15 I did myself send up a separate disk of just his
16 pertinent calls. I don't know if that's going to make the
17 information get to him in any faster manner, Your Honor,
18 given that there's still only three or four computers as
19 everyone communicated. I think what's going to happen is
20 we're all going to send up separate information so Jean
21 Singleton's just going to have a big pile of disks there
22 and still be limited to the small amount of computers.

23 That probably will be what will happen with the
24 paper materials also that we send up there. If everyone
25 sends up a big pile of a hundred sheets of paper materials

1 for their clients, for each client, then I don't know if
2 she'll be able to facilitate having each client come in
3 and sit and go through their written materials same way
4 they would go in and listen to their -- because she has to
5 keep control of the documents while the clients look at
6 them. So it's not as though they're just handing the
7 client the documents and saying look at them, go into a
8 side room. I don't think they have the facilities there.
9 I'm not sure what we could do to make that not occur.

10 I do understand where Attorney Einhorn is coming
11 from in terms of there have been very strict issues taken
12 regarding our client's release in terms of that, so I
13 don't really have an answer for that. There may be that
14 we look at more methods that could be used that limit
15 their ability of flight and limit their alleged danger to
16 the community and at the same time allow them to come to
17 our office and review the materials.

18 If our clients were on electronic monitoring,
19 I've always had trouble understanding how at that point my
20 client is going to be a risk of flight. Or if he's on
21 home confinement, how he's going to suddenly be a risk to
22 the community. If that's the position takes, I
23 understand, but I think we do have to have access for our
24 clients.

25 In terms of the sheets themselves, sending up

1 just the line sheets, which sounds like a good idea, my
2 only concern with that, Your Honor, is when I read the
3 information on the line sheets, it tells me that those
4 line sheets themselves are just a summary of what maybe
5 the call sounds like, what they think the call sounds
6 like. It's not an actual transcript of the call itself.

7 So my client would go, oh, that's not exactly
8 what I said there. This doesn't sound like this. And I
9 have to say, well, that's just what they thought it said
10 at the time, and that's not what we're going to actually
11 be utilizing at the time of trial. So they would need
12 something more specific maybe with the actual transcripts.
13 I understand the massive burden that would put on the
14 government trying to transcribe all these at the same time
15 and provide them to us so we could provide them to our
16 clients.

17 So I don't really have a solution to all of this
18 in terms of my client who is also at Wyatt, and I'm not
19 sure if bringing them back down by the marshals -- someone
20 said they've started doing that, which is great, but at
21 the same time that's not going to help me if they bring
22 him to New Haven and I'm sitting on the other side of that
23 little screen. I basically can't get much done there
24 either, Your Honor, in terms of that. I don't have any
25 solution to any of the issues, unfortunately, but I do

1 know they exist.

2 Sometimes I wonder, though, and this is maybe a
3 general comment, that when we talk about the danger of
4 giving the information to the client themselves, of each
5 client having it there in the cell as the government talks
6 about, unfortunately we've had a number of cases like this
7 in the past and many of the cases I've been participated
8 in like this in the past, Your Honor, some client ends up
9 getting all the information somehow. They end up with all
10 the transcripts, they end up with all the materials, and
11 they have that in their cell, and my client comes back to
12 me and tells me, hey, so-and-so has all the materials in
13 their cell. And I have yet to see anything negative occur
14 from that besides the fact that my client didn't have the
15 information and he thinks I'm not doing my job because I'm
16 not giving it to him.

17 So I don't know if, you know, in terms of if
18 there's an actual validity to that danger of the client
19 actually having the materials there in their cell. And if
20 there is, maybe it could be steps taken to take out what
21 small fraction of the materials would actually cause harm
22 to someone, Your Honor.

23 THE COURT: Thank you.

24 Mr. Lee? Mr. Walkley on behalf of Mr. Lee?

25 MR. WALKLEY: Thank you, Your Honor.

1 I don't think there's really much more that
2 could be said with regard to the discovery issue, Your
3 Honor. I think it's been covered pretty well.

4 My big concern, just with regard to scheduling,
5 happens to be a trial schedule that I have between now and
6 probably next spring, which is why I think -- hope springs
7 eternal -- perhaps my client will actually work out the
8 case here, but if not I think a spring date is probably --
9 an April or May date would probably be feasible.

10 THE COURT: Mr. Lee is detained at Wyatt?

11 MR. WALKLEY: At Wyatt as well, Your Honor.

12 And unfortunately my situation is probably worse
13 than the others, the target telephone conversations, other
14 than Mr. Smith, the second most person happens to be
15 Mr. Lee. So I did provide him with a set. I don't know
16 whether or not he's been able to start listening to any of
17 these calls yet, but I provided him -- well, Jean
18 Singleton -- with a set just for my client for purposes of
19 review, but I don't know whether he's been given access to
20 the computers to do that.

21 But his review may take longer based on the
22 number of conversations.

23 THE COURT: Let me follow up, please.

24 Specifically you have provided him with what?

25 MR. WALKLEY: The government provided, I believe

1 it's 22 compact disks, that contain audio recordings as
2 well as documentary evidence.

3 THE COURT: Okay. And let's suppose that
4 Mr. Lee had access to a computer and knew how to use it.
5 What would be your expectation at that point?

6 MR. WALKLEY: About how long it would take him
7 to go over all of these materials if he had use as needed?

8 THE COURT: Yes. What would be anticipate that
9 he would need to do or would want to be able to do? And
10 how long do you think that would take?

11 MR. WALKLEY: I would imagine realistically
12 probably a few months if he had access to a computer at
13 any time that he wished. You know, three hours in the
14 morning, three hours in the afternoon, which I know is not
15 realistic.

16 THE COURT: But it would take him that long to
17 get through it all? It's that voluminous?

18 MR. WALKLEY: What I expect to be thousands of
19 conversations and probably thousands of hours of
20 conversations, at the very least hundreds of conversations
21 and conversations that he apparently is involved in to a
22 large extent in this case.

23 I think that -- I don't know, you know, because
24 I know that if he has 22 disks, some of them are related
25 to investigations that are in those other indictments. So

1 perhaps I'm exaggerating a little bit based on whether or
2 not all of those would pertain to him. And then the
3 documentary evidence, I would imagine some of which goes
4 along with the audio. But I would still think for
5 somebody in his situation who is in custody and can only
6 be given access to it periodically, I would think at the
7 very least it would probably be a matter of a few months.

8 I don't know that there is really a workable
9 solution, even if I gave him all of these materials to
10 have in his cell, because he doesn't have the ability to
11 listen to it in the cell because you need a computer to do
12 that. Even if he had a listening device, he would need a
13 computer because they're programmed for purposes -- or
14 they're formatted to be played on computers, not on some
15 other kind of a disk player.

16 So I think realistically, having his own set to
17 keep in his cell isn't going to make a difference. He
18 still needs the ability to be able to look at them through
19 some other device.

20 THE COURT: I see.

21 MR. SILVERMAN: And I should note that the
22 discovery provided was broad in the sense that it had to
23 do with the entire investigation which led to all of the
24 five indictments that I've been discussing today. Some of
25 these disks will have no intercepted calls involving any

1 of the defendants.

2 Here the government provided all of those disks
3 to be over-inclusive to be sure we weren't leaving
4 anything out. And I'm happy to work with defense counsel
5 in the hopes of streamlining the initial review of
6 discovery and pointing them to areas that I think they
7 would prefer to focus on.

8 MS. LEVY: I have real concerns about agreeing
9 to any kind of streamlining. The idea that the government
10 is going to be taking part in cutting back on the material
11 that it has and it has produced that becomes available to
12 my client is of great concern.

13 I also have a real grave concern about having
14 only line sheets available to defendants without the
15 audio. I recall a case, a number every years ago, eight
16 or ten years ago, in which my client was indicted in
17 federal court in New Haven and he listened to the audio
18 conversations and said "that's not my voice." Frankly, I
19 couldn't tell whether or not it was his voice, and we sat
20 down with the Assistant United States Attorney and the New
21 Haven detective who had been on the task force who knew my
22 client for years and years and years and agreed that that
23 was not my client's voice, that it was some other guy in
24 this case named Shortie, of whom there were four in New
25 Haven at that time, and the case was dismissed.

1 So I have very grave concerns about not having
2 clients able to listen to the audio portion. I take it
3 the fact that I can't hear the audio portion at this point
4 is a glitch, a technical issue that we're going to get
5 worked out fairly soon.

6 But cutting back on either the audio or on
7 selected portions that the government now decides are too
8 dangerous for my client to hear is a real grave concern
9 for me. It's not my case. It's my client's case. And
10 they're entitled to hear the evidence against them.

11 And I would say that, very frankly, my
12 individual client who is Meggy Rentas, who is released on
13 bond, is someone for whom I would request the ability to
14 have paper copies of all of the discovery made available
15 to her.

16 She's been found by the Court to be indigent,
17 she doesn't have transportation and she has numbers of
18 health issues which would make it very difficult for her
19 to travel from New Haven to occupy hours and hours and
20 hours of time in my offices. And for me, that part of it
21 could be resolved by paper copies and then we could listen
22 together to the audio portion.

23 But I do think there are terrible problems with
24 the discovery here.

25 THE COURT: Okay. Thank you.

1 Anthony Moore.

2 MR. FURNISS: Yes, Your Honor. Tom Furniss
3 representing Mr. Moore.

4 Mr. Moore's case, Your Honor, is a little bit
5 simpler from the discovery point of view fortunately. I
6 saw what Mr. Vatti said was all the discovery as to him
7 directly on May 31 before the CDs were sent out and I
8 think I'm going to take Mr. Silverman up on his offer. He
9 sent out a group email yesterday with I think roughly ten
10 dates and times to meet individually with counsel in the
11 respective cases, and I think we can resolve most of the
12 discovery questions at that time.

13 There's another issue I haven't heard anybody
14 raise, and I'm a little surprised. My client as of
15 Monday -- and actually tomorrow we have a hearing before
16 Judge Martinez on my motion for release on conditions.
17 The government has some very strong objections and I don't
18 know if it will be successful. But my client, at least as
19 of Monday of this week, was still in what they call the
20 Gang Pod or HPOD. He doesn't know why.

21 Now, it's funny, I've read all the indictments
22 in all five of these cases, there are no allegations of
23 gang activity. I don't think the word G-A-N-G is in any
24 of them, and yet when these guys were presented in about
25 the third week of May, I think, Mr. Vatti -- and this was

1 before Judge Garfinkel and they were doing about six at a
2 time, and they would mix up four in this case and maybe
3 two in the other -- and many of the defendants, as
4 Mr. Silverman said, including my acquiesced in detention
5 without prejudice. Now we're bringing a motion, we'll
6 have a chance to get out.

7 And I happen to know, by the way, Ms. Singleton,
8 very well. She's very capable, but she's overwhelmed
9 right now. Her title is program director. She is also in
10 charge of security. And in another legitimate gang case,
11 which I'm out of as of about two months ago, I discussed
12 with her in some detail the process Wyatt uses. Obviously
13 anybody in Wyatt who is a federal detainee is in the
14 custody of marshals, so they have theoretic control of the
15 situation. But equally, they've got to delegate most of
16 the day-to-day decisions to the people at Wyatt. I
17 thought there were more than 105 defendants in these
18 cases, but there are an awful lot.

19 HPOD, my client thinks, holds about 50 people.

20 Has anybody else had problems with this? People
21 being treated as gang members? I thought a lot of them
22 were.

23 And Ms. Singleton told me a couple months ago
24 with respect to another case -- and this was before these
25 arrests, so it was before Wyatt was overwhelmed, that they

1 periodically, and I think she said to me every two to
2 three weeks, review the situation of each detainee. Do
3 they have information which may be reliable -- maybe it
4 isn't -- but do they have information that somebody has a
5 gang affiliation which could be dangerous to somebody if
6 they were in general population.

7 My client a few weeks ago met Ms. Singleton, had
8 a talk with her, has not had a review, or at least as of
9 Monday. So I think that's a major problem here, and
10 again, my suggestion at least as far as I can do -- as
11 what I can do for Anthony Moore -- is to talk to
12 Mr. Silverman in the next couple of weeks, see if we can
13 get one of the assistants to write a letter suggesting
14 that they expand their ability to review, or something
15 like that. Because it's a real problem.

16 But again, with respect to discovery, I think
17 we'll be okay, and if we aren't, you'll hear from me.

18 Thank you.

19 THE COURT: Thank you.

20 MS. SADIN: Your Honor, if I may once more speak
21 out of turn? I just want to add a couple things.

22 The problems that we've all discussed, they are
23 not theoretical, they're very practical problems that all
24 of us have encountered and that our clients are
25 encountering. And I just want to look to not just Your

1 Honor but to the government to help resolve these, because
2 if the expectation is that there will be defendants who
3 will be in a position to resolve these charges, they will
4 have to be, as one of my colleagues pointed out, informed
5 decisions. So the resolution of these discovery issues
6 should be a resolution that the government is very much
7 motivated to help the Court find.

8 THE COURT: Thank you.

9 Stephen Nesmith?

10 MR. KOCH: Thank you, Your Honor.

11 At this point I'm just going to pass. I think
12 enough's been said. I've been having some delirious
13 thoughts back here. Probably going to keep them to
14 myself.

15 THE COURT: Can you tell me about the situation
16 of your client detained on bond?

17 MR. KOCH: Actually Your Honor, my client, I
18 have looked at -- there's a few pertinent calls, I've
19 looked at them. I'm going to hopefully meet with
20 Mr. Silverman very soon, and if the government can't
21 explain to me how those are incriminatory, I'll be filing
22 a motion for him to be released.

23 THE COURT: But he is currently detained at
24 Wyatt?

25 MR. KOCH: He is. And he did agree to detention

1 at the time to see what the evidence was.

2 THE COURT: Thank you.

3 Karriem Peters.

4 MR. SILVERMAN: Attorney Kappes represents
5 Peters. He contacted me to let me know he would not be
6 present.

7 I can inform the Court that Mr. Peters is out on
8 bond right now.

9 MR. WALKLEY: If I may, Your Honor, Mr. Kappes
10 asked me if I could cover today's hearing for him.

11 He didn't have any specific issues with regard
12 to discovery. I'm sure nothing different than what we've
13 already expressed today.

14 And as far as available, I believe his only
15 concern was the trial schedule that I believe kept him
16 occupied into January or February of next year.

17 So at least the rough schedule we've already
18 talked about today probably would be fine with him.

19 THE COURT: Thank you.

20 Ms. Levy has spoken on behalf of Ms. Rentas,
21 Mr. Einhorn on behalf of Mr. Sanders, and Mr. Filan on
22 behalf of Mr. York. Is there anything that any of you
23 would like to add.

24 MS. POLAN: Your Honor, I would like to respond
25 to when Your Honor asked the question before, could the

1 government provide more computers to Wyatt. I think
2 that's a very practical suggestion. I mean, the
3 government has apparently unlimited resources to bring
4 these prosecutions against people who are, by and large,
5 street level drug dealers in New Haven who prior to --
6 alleged -- prior to this year would have been arrested and
7 put through the state system. I can't stop the government
8 from doing that, but that's really what we have here, by
9 and large.

10 So the idea that the government could provide
11 some more computers to Wyatt to me is not a farfetched
12 idea at all. Because based on everything we've heard
13 today, all of these defendants who will remain detained
14 for a lengthy period of time will need to listen to the
15 evidence about themselves to say: Is it me? You know, am
16 I a conspirator? Is it in my interest to plead guilty?
17 Is it in my interest to go to trial? So I don't think
18 that's farfetched at all.

19 And I appreciate the fact that Your Honor asked
20 the question, because before I came in here, that was one
21 of my thoughts, you know, double the number of working
22 computers up there, you're going to break the logjam at
23 least a little bit.

24 THE COURT: All right. Does anybody else wish
25 to add anything to what's been said?

1 All right. Is there any further response,
2 Mr. Silverman?

3 MR. SILVERMAN: Your Honor, I think based on all
4 of the concerns that have been raised today there are a
5 number of things that my office should go back and look
6 at. I will certainly talk to our I.T. folks and Wyatt
7 about the possibility of more computers. I don't know how
8 feasible that will be given some of the bureaucracy I
9 expect I would encounter, but I will certainly go back and
10 look at that issue.

11 I'm happy to file for the Court a speedy trial
12 finding laying out the government's concerns and rationale
13 for why the proposed schedule I laid out earlier would be
14 appropriate in this case.

15 I also am eager to meet with each of the defense
16 attorneys in this case who wish to take me up on that
17 opportunity to talk about the client's individual cases
18 and perhaps discuss in that setting what documents might
19 be appropriate. Not to cut back on any of the review that
20 the clients should be able to do. We've provided the
21 discovery so that they could review it comprehensively,
22 but perhaps that we can focus on certain areas or
23 highlight certain areas for defense counsel's
24 consideration at those meetings.

25 I do think that this case is still at an early

1 stage and that there will be fruitful discussions between
2 the government and defense counsel for many of the
3 individuals that have been named.

4 With the Court's permission, I guess what might
5 make sense is for the government to file some pleading
6 shortly that would lay out the rationale for certain
7 speedy trial findings the government seeks as well as
8 laying out a proposed schedule based on the concerns that
9 were raised today and for me to work further with defense
10 counsel on the issue of discovery and how we might be able
11 to proceed -- most easily be able to proceed in that area.

12 MR. EINHORN: Your Honor, if I may, with regard
13 to the speedy trial issue only, the remedy for having this
14 case sit in limbo possibly until Mr. Henderson is picked
15 up years later, where ever he is, is severance of course,
16 and that's the remedy. So that if in fact the
17 government's going to take the position and ask Your Honor
18 to find that the speedy trial clock doesn't start running
19 until all of the motions are resolved and so forth, which
20 could be a very long time, then let's sever the case out.

21 I would ask Your Honor -- I'll make a motion to
22 this effect as soon as I see the government's speedy trial
23 request. But perhaps people ought to be severed out and
24 the government be forced to go to trial in pieces.

25 I know it doesn't like that, but it chose to

1 bring this case. I still maintain its not prepared to go
2 to trial right now and it's not fair to have everyone else
3 sit and wait while, as it says, the speedy trial clock is
4 stopped.

5 MR. SILVERMAN: And, Your Honor, I propose to
6 meet with Attorney Einhorn and anyone else who would like
7 to. We could discuss these issues and see if we can
8 approach the Court with a way to proceed that would be
9 agreeable to all of the parties. I think it makes sense
10 for me to move forward in meeting on an individual basis
11 with defense counsel in the near future.

12 THE COURT: All right. Thank you.

13 MR. SILVERMAN: Thank you, Your Honor.

14 THE COURT: I'd like to be able to say something
15 constructive that might be of assistance to you. As I
16 trust you can appreciate, from my perspective, this is a
17 challenging situation. Our district suffers acutely for
18 lack of a detention facility nearby, and the volume of
19 people recently arrested brings it to the crisis point if
20 it wasn't already there.

21 I could go on at length on that topic, and I'm
22 going to restrain myself for fear that I've already kept
23 you too long and also I might divulge some confidences by
24 accident.

25 But I will tell you that it's something that has

1 been of grave concern to the judges for a long time and
2 this does bring it to a point that makes it extremely
3 difficult.

4 It's my understanding that the marshal is
5 prepared to accommodate requests to transport people for
6 meetings with counsel at the three seats of court when
7 space is available on the van. The marshal has made that
8 commitment to the Court and invited the Court to make that
9 clear to the federal defender, and through the federal
10 defender's office to the criminal defense bar generally.
11 That's my understanding of the current situation.

12 So if anybody wants to contact the marshal to
13 request that accommodation, you shouldn't hesitate to do
14 so.

15 MR. SILVERMAN: Your Honor, in the past
16 sometimes the marshals have requested that my office issue
17 something called an order to produce to help bring a
18 defendant in, and I'm happy to help facilitate that if
19 defense counsel want to reach out to me. It doesn't take
20 long and it may ease the process a bit.

21 THE COURT: Thank you.

22 I understand that it's far from ideal, because
23 even when the person does come via the van to a seat of
24 court, the set-up for the meeting doesn't permit the kind
25 of effective, efficient exchange that would you like to be

1 able to conduct. One thing that I take away from today is
2 the need to focus on that with the marshal. I will do so.

3 I will try to learn more about why this is the
4 way things are done and I'll ask whether there could be
5 some flexibility that would enable you to have a more
6 effective, efficient meeting. I have no clue what the
7 answer will be, but I'll look into it.

8 It seems that in the best of all possible
9 worlds, what the individual would like would be
10 transcripts that purport to be reasonably accurate
11 provided to counsel and made available to the client,
12 along with an opportunity to listen to any conversations
13 that are pertinent and bear upon the client's need to make
14 an informed decision about how to proceed in the case, and
15 in this best of all possible worlds, counsel and the
16 client would have an opportunity to listen together to the
17 actual evidence, the recording itself and would be able to
18 do this in a reasonable period of time, and that should be
19 our objective. If you were seeking to provide the best
20 quality of justice to people, that's what you would try to
21 do and that's why I'm going to ask you to think about.

22 I would like to hear from you whether that can
23 be done, and if not, why not. If in your view it can't be
24 done, then what do you suggest we do to provide the next
25 best thing?

1 I take it to be my responsibility to provide the
2 best possible process within the constraints that I face,
3 and the constraints that you face, but I don't think we
4 should be running a second-class operation because the
5 government indicted 110 people, and I think that is
6 inarguable. That is a given. I think that if the weight
7 falls on the government to scramble to find a way, then
8 that's only right.

9 Mr. Silverman, I take it that you are sensitive
10 to this and I appreciate your offer to be available to
11 meet with counsel, to work with each one, and to confer
12 with your office about what we can do. But I don't think
13 that it's my place to say that people need to wait weeks
14 or even months to do what I just outlined.

15 I think that if you were on the other side of
16 the case or if it were your loved one who was charged, you
17 would expect to get transcripts of the recordings, the
18 evidence itself, in the form of the disks and you would
19 expect to be able to sit with your client or, you know, if
20 you are concerned about the welfare of the person actually
21 charged, have that person sit with his or her lawyer to
22 listen to the evidence and have a meaningful discussion
23 and not have to do it in December after being detained for
24 a period of months since May.

25 I think that if we bear that in mind, we may be

1 able to do this in a way that is at least adequate.

2 MR. SILVERMAN: Yes, Your Honor.

3 THE COURT: All right?

4 So I'm going to take you up on your offer just
5 now to get back to me with a submission outlining what you
6 think should be the schedule setting out your concerns
7 with regard to trying to force the case to a trial within
8 the time suggested by Mr. Einhorn, and I will hope to
9 receive something that tells me how the government
10 proposes to deal with the concerns about discovery that
11 have been discussed today recognizing that in the best of
12 all possible worlds, people would get transcripts and the
13 audio and they'd have a chance to go over them with their
14 counsel in a timely manner.

15 With regard to the other concern raised today
16 about detention, I expect that, as Mr. Silverman said,
17 anybody who seeks to be released will have a hearing,
18 presumably in front of the magistrate judge that dealt
19 with the matter initially, but maybe not.

20 Mr. Silverman, does this case involve guns?

21 MR. SILVERMAN: Your Honor, I don't believe
22 there's any allegations relating to firearms involved in
23 this indictment.

24 THE COURT: Does the case involve any violence,
25 to your knowledge?

1 MR. SILVERMAN: Your Honor, there may be some
2 intercepted communications in which some of these
3 individuals reference acts of violence or firearms, but
4 none of those have led to charges in this case.

5 THE COURT: Okay.

6 MR. SILVERMAN: I should commend the various
7 magistrate judges in this district who have been very
8 accommodating and flexible in dealing with the volume of
9 defendants promptly and as motions are filed.

10 THE COURT: Last thing. Somebody suggested that
11 many of these defendants are people who typically would
12 not be charged federally. Do you want to comment on that?

13 MR. SILVERMAN: I suppose my response would be
14 brief, Your Honor, in the sense that the government did
15 not indict everyone intercepted on the phone calls engaged
16 in criminal activity here, and the process was selective
17 based on a number of criteria, including the quantity of
18 drugs the government alleges to be involved, the specific
19 individual's role or perhaps the individual's history.

20 In our view, the charging was appropriate in
21 this case. Certainly I welcome discussions with defense
22 counsel, and if they're able to convince me we erred, we
23 will take appropriate action.

24 So I look forward to all of my discussions with
25 defense counsel as we go forward. But in our view, this

1 investigation led to many appropriate charges.

2 THE COURT: All right. Thank you all for being
3 here today.

4 MR. FILAN: Your Honor, if I may just before we
5 recess? We've covered a lot of ground here today and
6 there are a number of lawyers who aren't here, and I was
7 wondering if on behalf of Aaron York and other people who
8 are not here, we could order a transcript of today's
9 proceedings so we could share with our other counsel to
10 let them know what we did, if the Court would order that?

11 THE COURT: Yes.

12 MR. FILAN: And I'll take care of the
13 appropriate forms.

14 THE COURT: That's fine.

15 (Proceedings adjourned at 3:58 p.m.)

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C E R T I F I C A T E

In Re: U.S. vs. SMITH

I, Darlene A. Warner, RDR-CRR, Official Court Reporter for the United States District Court for the District of Connecticut, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

/s/ _____

DARLENE A. WARNER, RDR-CRR
Official Court Reporter
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