

*Page 21-53
has this be filed.
Reginald L. Lister
U.S. Dist. Ct. 7/6/21*

1 June 30, 2021. Judge Lamberth. 3:00.

2 THE CLERK: Good afternoon, Your Honor. We're
3 on the record in Criminal Case 21-3, United States of
4 America versus Jacob Anthony Chansley. Counsel, please
5 identify yourselves for the record.

6 MR. NELSON: Good afternoon, Your Honor. Jim
7 Nelson for the United States standing in for Kim Paschall.

8 THE COURT: All right.

9 MR. WATKINS: Albert watkins present here on
10 behalf of the defendant, Jacob Chansley.

11 THE COURT: Okay. Mr. Chansley, can you hear me
12 okay?

13 THE DEFENDANT: Yes, Your Honor. I can. Thank
14 you.

15 THE COURT: Okay. All right. Mr. Watkins,
16 we're here on your motion. So you may proceed.

17 MR. WATKINS: Thank you, Your Honor.

18 I do not want to put this Court through the
19 burden of having a re-recital of an extraordinary amount
20 of information that's been set forth in the original
21 motion, the response in opposition submitted by the
22 government and the reply filed by the defendant. I do not
23 want to belabor the supplemental briefing on the issue of
24 the flight risk. But I do want to highlight matters of
25 importance. Since the initial detention hearing conducted

1 by this Court, significant additional new information and
2 evidence has come forth which supports the proposition
3 that the gravamen of the evidence relied upon by the Court
4 in the initial ruling of this Court for pretrial opposing
5 or denying pretrial release of Mr. Chansley was erroneous.
6 The new evidence includes the ascertainment that the
7 finial and flag pole and flag which the government
8 represented to this Court was a dangerous weapon and which
9 this Court had every right to rely on on the accuracy of
10 this affirmative longstanding representation of the
11 government which was made at the first detention hearing
12 in front of the magistrate in Phoenix, it was and has been
13 since determined that that flag, that flag pole and that
14 finial have been in the possession of the government since
15 the defendant voluntarily surrendered himself in Phoenix
16 on January 9 and provided the government with access to
17 introduction of that flag pole, flag and finial. Only to
18 find out that, you know, the government which obviously
19 did not present the flag pole or the inspection by parties
20 much less the Court, that flag pole and that finial and
21 the flag were not able to be used as a deadly weapon. In
22 fact, that finial had no screw or no nail that would affix
23 it to the pole. But rather if you see the images, all of
24 the images of the defendant as he travels up to, into
25 through and outside of the Capitol building on

1 January 6th, he is holding that pole upright,
2 perpendicular to the ground and he's doing that for a
3 reason. Because if he tilted it, the finial and the flag
4 would fall off. It was not able to be used as a weapon.

5 And despite the fact that the government had
6 that flag pole and finial and flag in its possession, the
7 government insisted on representing to this Court that it
8 was a deadly weapon when pointedly sua sponte by the
9 Court and asked by the Court if it was a deadly weapon.

10 In addition to that, we as we noted with the
11 Court in our briefing, we made a public plea for video
12 footage, video footage that the government dismissed
13 because the links that we provided to this Court depicting
14 the defendant traveling up to, through and outside of the
15 Capitol after he traversed its hallways, because the links
16 were on YouTube, they were somehow worthless. They were
17 open to the public. They were from the public. No.
18 Indeed those were videos that we posted on YouTube to
19 acquire the links so that we could incorporate the links
20 into the brief.

21 So we have a -- the new information is basically
22 a video montage of not entirely but most steps taken by
23 the defendant as he traversed the hallways of the Capitol,
24 which depict among other things efforts on the part of the
25 defendant to garner the friendly return of a stolen shield

1 by an individual in the Capitol back to the police, the
2 thwarting of the much maligned muffin theft in the break
3 room in the Senate outside of the Senate chamber. We had
4 video that clearly depicted the defendant assisting law
5 enforcement in emptying out the chamber and the Capitol
6 after the President told everyone it was time to go home.

7 We demonstrated through the video that we
8 provided to the government that the defendant was the
9 recipient of express permission granted by a high ranking
10 member of the Capitol Police force, Capitol Police
11 department, being one of the high ranking inspectors.

12 We provided the government with video footage
13 depicting the defendant traversing the halls of the
14 Capitol in line with law enforcement as they were emptying
15 out the Capitol. We provided video of the defendant on
16 his bull horn telling people to get out of the chamber and
17 to get out of the Capitol.

18 We provided video to the government depicting
19 the defendant standing on the elevated what was then
20 grassy circle area in the upper west balcony of the
21 Capitol. It's now just dirt. As people passed by him,
22 hundreds of them passed by him into the Capitol before the
23 defendant entered the Capitol, the defendant was standing
24 on that grassy circle allowing selfies to be taken of him
25 by others.

1 The video footage that we provided to the
2 government included clear depiction of the defendant
3 having the door held open for him by Officer Robichaux as
4 he entered into the Senate chamber.

5 We provided to the government clear video
6 footage depicting my client, Mr. Chansley, walking into
7 the Capitol through doorways that were being held by and
8 lined by law enforcement. We provided video footage of
9 numerous instance of friendly, respectful interaction by
10 and between the defendant with law enforcement both inside
11 of and afterwards outside of the Capitol where law
12 enforcement were in his immediate vicinity, said nothing
13 about nor did they seek to seize the flag pole with the
14 flag on it and the finial on top. This despite that being
15 the same flag pole that was donned as part of the Shaman
16 costume, if you will, worn by Mr. Chansley for a period
17 leading up to January 6th. That included times when
18 including on January 6th when there were security check
19 points where weapons going down to nail clippers and
20 pocket knives were being confiscated. No such
21 confiscation or seizure of the flag, flag pole or finial
22 occurred with Mr. Chansley.

23 The most interesting and I believe probative
24 issue that has come to light during the course of our
25 briefings had been the mental health issues that the prior

1 or pre-existing mental health vulnerabilities that were
2 diagnosed or noted during psych exams when the defendant
3 was in the custody of the U.S. military as a member of the
4 armed forces in 2006. And, Your Honor, I have confirmed
5 that the psych exam has concluded and we understand the
6 results of that exam will be forthcoming in short order.

7 We have been forced and compelled to face the
8 reality that the government is opting to vigorously fight
9 the pretrial release of the defendant despite the fact
10 that I was able to provide the government and this Court
11 with nothing short of 20-something defendants who were
12 charged with crimes arising out of January 6th that
13 involved violence, theft, destruction, weapons, vitriol
14 and the various acts, all of whom were released for
15 pretrial release, many of whom were released on their own
16 recognizance.

17 And the Court in its decision, this Court in its
18 decision in denying the pretrial release relied very
19 heavily, overwhelming heavily on the representation of the
20 government about the deadliness of the weapon, the flag
21 pole, the spear, whether you call it a spear or a finial,
22 and this information in turn put us all in a position of
23 having to address with a really elevated degree of clarity
24 that the lip service that is given -- very genuine lip
25 service that is given by the government by and through its

1 what I call boots on the ground, the Assistant U.S.
2 Attorney is based on a learned appreciation for not just
3 the videos that we have provided including other videos
4 that were demonstrative of an elevated degree of
5 cooperation by Mr. Chansley. But that there is a
6 dichotomy between the knowledge and position of the boots
7 on the ground, the Assistant U.S. Attorneys, and those up
8 the chain of command who are forcing and compelling their
9 boots on the ground, the Assistant U.S. Attorneys not to
10 have the role, the traditional role that they have in
11 addressing counts and the reconciliation of cases by means
12 of various forms of pretrial disposition.

13 In addition, what has not been brought to the
14 fore for the benefit of this Court is that since the
15 initial hearing, a great deal of collaborative undertaking
16 was pursued on behalf of and by the defendant such as to
17 permit not one, but multiple debriefings to be conducted
18 by the FBI and the Assistant U.S. Attorney of the
19 defendant. This was done without promises. This was not
20 done without a plea deal. This was not done as part of a
21 formal proffer. It was done as a debriefing. And the
22 cooperation, the assistance, the information, the video
23 that had been provided to the government by the defendant
24 demonstrate a wholesale commitment by the defendant doing
25 that which is right for the country, that which is right

1 for the government. And at the end of the day that which
2 is properly demonstrative of a sense of responsibility and
3 prudence living up to his longstanding love of his
4 country.

5 The government has gone so far as to suggest
6 that the pretrial release of Mr. Chansley should not be
7 granted. And what's really telling is that as part of
8 that opposition, when it was brought to the government and
9 the Court's attention that we now were aware of the fact
10 that that flag pole wasn't useless. It was nothing more
11 than a thimble or a clan on a hot July day. It was no
12 more dangerous than that.

13 The government in its response in opposition did
14 not mention the flag, did not argue the flag, did not
15 attempt to again characterize it as a weapon. And in fact
16 certainly did not bring to the Court or to permit me to
17 any access to the flag or the finial or the pole. That
18 wholesale absence of addressing that issue is one which I
19 as counsel respect. If I was in the Assistant U.S.
20 Attorney's shoes, I would probably do the same thing
21 except I would also say Court, you're right or the
22 defendant is right, that finial wasn't held on to the top
23 of that flag pole such as to render it a deadly weapon;
24 you are right, the defendant is right; in fact if you
25 tipped that flag pole over, that finial would fall over.

1 You know, it is obviously our duty and our
2 burden to show that this new evidence and that this new
3 information is sufficient to warrant reopening the
4 detention hearing. But the government is now going so far
5 as to assert that the defendant is a flight risk because
6 he lives in a state that borders an international boundary
7 somehow rendering citizens close to Mexico and citizens
8 close to Canada less entitled to their lawful rights to
9 pretrial release.

10 So, Your Honor, given the totality of the
11 circumstances, given the new evidence, given the new
12 information, given that which has been set forth in the
13 full briefing of these issues that are before the Court,
14 we request that the Court grant the defendant pretrial
15 release subject to those conditions that are deemed
16 appropriate by this Court. There are plenty of terms and
17 conditions that be can set forth. If the government does
18 not like Arizona despite the fact that Mr. Chansley has
19 never owned a passport, speaks no foreign language, has
20 never been out of this country except with the military,
21 has lived in Phoenix all of his life, his mother has lived
22 in Phoenix all of his life. His mother has lived in the
23 same home for all of Jacob's life virtually and Mr.
24 Chansley lives with his mother. His maternal grandfather
25 lives there. His maternal step grandmother lives there in

1 very close proximity. The maternal grandfather is the
2 sole significant male role model up with whom defendant
3 grew.

4 The defendant's -- two of the defendant's
5 siblings reside in Phoenix. Of course, the defendant has
6 made his home in Phoenix, has worked in Phoenix. And,
7 yes, he has had prior to his self peaceful self surrender
8 worked in Phoenix.

9 Now what's interesting also is the government
10 mischaracterized virtually everything about the defendant,
11 trying to make him out to be everything from any drug
12 user, mischaracterizing the government's own FBI forms and
13 reports that were disclosed as part of discovery, has made
14 it clear that the defendant did not try any drugs ever.
15 Didn't use any drugs other than marijuana. That the
16 defendant had not consumed alcohol for many, many years
17 preceding peacefully self-surrendering.

18 The government failed to note for the Court that
19 the second the defendant learned of the interest in him by
20 the FBI, he didn't wait until he returned to Phoenix. He
21 was on the grid. He got on his phone. He called the FBI.
22 He spoke freely with them. He spoke honestly with them.
23 He was truthful with them as he was throughout protracted
24 debriefings.

25 The government knows the defendant is not lying.

1 The government knows the defendant made representations
2 that helped the government, provided the government access
3 to video that the government would not have otherwise had
4 that related to the theft of classified material from the
5 Capitol on January 6th.

6 So we have before us a unique opportunity to
7 take advantage of this hearing and permit the defendant
8 pretrial release. If Arizona is not the place for the
9 defendant because it's close to Mexico, we have
10 alternative arrangements available for him in a secure
11 location in St. Louis, close proximity to my office that I
12 am confident will give rise to no concern on the part of
13 pretrial services. I'll be happy to talk to you in detail
14 about that off the record, off the public record to avoid
15 disclosure of names and locations.

16 We have healthcare lined up, mental healthcare
17 lined up for the defendant in both Phoenix and St. Louis
18 and it's mental healthcare that's needed. The goal
19 objective is to take a man who has a high degree of mental
20 acuity and capacity to hold it together to not only be
21 appreciative of his role in getting where he is today, but
22 being able to play a role in his defense, to assist his
23 counsel, to assist his counsel in assisting him and that's
24 something because of COVID, because of confinement,
25 because of representations made by the government, because

1 of the cumbersome nature of communication by telephone or
2 by video conferencing, and to be in person simply cannot
3 be accomplished.

4 with that obviously an oral supplement to the
5 briefs that have been filed with the Court, I would
6 request this Court take those measures necessary to order
7 the pretrial release of the defendant subject to and
8 pursuant to those terms and conditions that the Court
9 deems appropriate to ensure the safety not only of the
10 defendant, but obviously to secure his presence here.

11 The defendant is a man who needs some attention
12 that he is not able to get. I want to be able to put this
13 Court in a position of a high degree of comfort knowing
14 that this case is able to be disposed of one way or another
15 with a competent, cogent, articulate defendant. And this
16 defendant is capable of that. But in an environment
17 involving socio stresses associated with protracted
18 indefinite solitary confinement, that's not going to
19 happen. And that's an injustice for the defendant, but
20 for all of us because of the historical import of
21 January 6th and because of just basically the most
22 fundamental tenets of our justice system. This is a man
23 who has zero, zero criminal history and an overwhelming
24 longstanding commitment to all that is nonviolent.

25 THE COURT: I think you started the right way by

1 talking about in order to reopen the detention decision, I
2 have to look at what conditions have changed, what
3 material information that was unknown at the time of the
4 original decision. And I understand the arguments you've
5 made about what changed on the dangerousness question.
6 I'm not sure that there's any different information now
7 that I had at the time of the initial decision though on
8 risk of flight. What is the new information on risk of
9 flight that I didn't have at the time of the initial
10 decision and there has to be something material that has
11 changed.

12 MR. WATKINS: Yes, Your Honor. In the initial
13 hearing, I did not provide the Court with nor did I have
14 information about the longstanding tenure of residency of
15 the defendant in Phoenix or the ties that he had in
16 Phoenix including the lifetime of residency in Phoenix for
17 all of the years of her life of the mother of the
18 defendant, the close proximity of the mother of the
19 defendant to the siblings of the defendant in Phoenix, the
20 grandfather of the defendant in Phoenix, the cousins and
21 other relatives of the defendant in Phoenix.

22 What I was not aware of at the time nor was the
23 Court was the -- what were the vulnerability issues that
24 are longstanding which I believe play a really important
25 role in the Court's evaluation of new information and

1 evidence. Those mental vulnerabilities are not -- are not
2 are not fictional. They were not created out of thin air.
3 They are documented by the government's own records,
4 albeit through the U.S. military. But that longstanding
5 period between 2006 and the present without a blemish of
6 criminality showing up in the record of the defendant
7 reflection indicates that absent the socio stressors that
8 trigger the vulnerabilities that are reflected in the
9 medical records and described more fully in the narrative
10 provided to the doctor conducting the psych exam pursuant
11 to the request of the court puts us all in the position
12 of -- even the government -- having a high degree of
13 comfort with the ability of the defendant to navigate
14 peacefully in a fashion wholly compliant with the
15 directive of the Court, especially the directive to return
16 to court.

17 I cannot understate the importance or overstate
18 the importance of the weapon, the flag pole because that
19 was the corpus that served as the basis for the decision
20 of this Court to deny the initial request for pretrial
21 detention. The flight risk issue, the response of the
22 government was jaw dropping for me because I don't know
23 how to respond to an agent acting on behalf of the
24 government in the form of an Assistant U.S. Attorney to
25 the Department of Justice suggesting that somehow because

1 an accused lives in a state that borders another country
2 that somehow the burden on that defendant should be
3 greater.

4 THE COURT: Did the person at Colorado that you
5 talked to give you an indication of when their initial
6 report might be sent along to me to advocate for that?

7 MR. WATKINS: Yes, Your Honor. I will represent
8 to this Court that the information that I garnered was
9 directly from my client. I did not speak to the doctor.
10 My client indicated to me that he was told that the final
11 portion of a protracted series of meetings with the doctor
12 assigned to this matter concluded the end of last week at
13 which time my client was advised that the report would be
14 finalized in very short order because she understood the
15 importance of it to the Court and that she anticipated the
16 Bureau of Prisons would be picking him up for transport
17 back to Alexandria anywhere from two days to two weeks.
18 That was the window --

19 THE COURT: All right. That's helpful. Okay.
20 All right. Mr. Nelson?

21 MR. NELSON: Yes, Your Honor. Thank you.
22 Briefly, I would just note that the most important factor
23 before the Court is whether there is new or material
24 information with regard to the detention proceedings.
25 Counsel for the defendant has been talking for more than

1 20 minutes and hasn't said a single thing he hasn't said
2 before. This is all whether or not there was a weapon,
3 whether or not the defendant was at the front of the line
4 or back of the line or walked in through open doors. All
5 of that is disproven by the actual video footage from
6 inside the Capitol.

7 The defendant did not walk in through doors held
8 open by the police. The video was clear that he was part
9 of the very first group of people who pushed past the
10 police. He entered the Capitol through a window broken
11 open by Dominic Pasolla. It's on CCTV. It's made all the
12 more easy to discern by the fact that the defendant wore a
13 buffalo hat and face paint. He's not easy to miss.

14 It's very clear from the footage that the
15 defendant pushed his way into the Senate chamber alongside
16 Officer Robichaux as Officer Robichaux is telling him he
17 should leave and instead walks up onto the dais, sits in
18 the vice president's chair, writes a threatening note, all
19 the while consistent with the defendant calling the vice
20 president a "fucking traitor." There is no new
21 information here.

22 To the extent that it's new, it's not material.
23 The defense counsel may have found videos which he thinks
24 might be useful in defeating elements of the offenses at
25 trial, but none of them go to the actual factors before

1 the Court. And they certainly don't bear on the risk of
2 dangerousness for flight if the defendant is released. It
3 is simply recycled arguments and reworded hyperbole that,
4 first of all, the defendant didn't do what the videos show
5 him doing. Or if he did, he was brainwashed along the
6 lines of 60 Minutes interview under the guise of a legal
7 call by the sitting president of the United States. Or if
8 the Court doesn't believe that, he was incompetent on
9 January 6th and remains incompetent today. And
10 interestingly, Your Honor, that last point which the
11 defense says is its most probative point is critically
12 important for the Court because if the defendant is
13 actually incompetent which the psyche eval hasn't come
14 back yet, then the Court can't release him. We have to go
15 through civil commitment proceedings to have him held.

16 So this is -- to the extent that there's
17 anything here for the Court to rule on, it's not ripe
18 because we have an incompetence standard to review before
19 we go down any further down the path. And so I would say
20 to the Court that, first of all, there is no basis to
21 reopen the detention hearing. But to the extent that
22 there is, we cannot do anything until we hear back on the
23 defendant's competence.

24 THE COURT: All right. I had a couple of
25 questions for the government as well.

1 MR. NELSON: Yes, Your Honor.

2 THE COURT: In the supplemental brief, the
3 government said that the defendant is one of the prominent
4 figures of QAnon, but other than the evidence of his
5 ability to quickly raise large sums of money for travel
6 through non-traditional sources, does the government hold
7 any evidence that the defendant actually has a leadership
8 role in QAnon or what evidence does the government have
9 about what he really is as to QAnon or what his role is as
10 to QAnon?

11 MR. NELSON: Your Honor, to answer your
12 question, I think that largely that information is unknown
13 to the government other than the defendant's I would say
14 outspokenness with regard to QAnon and its positions
15 vis-a-vis in particular the election.

16 THE COURT: Okay. If the Court were to release
17 the defendant to some sort of home confinement or some
18 other conditions that the defendant is proposing now and
19 order that he not use the Internet in the interim, would
20 that mitigate the risk that he could use -- raise money to
21 travel or what -- how do you address that as a mitigating
22 factor because of QAnon? I don't quite understand how
23 that works in the government's view.

24 MR. NELSON: Well, Your Honor, I just --
25 realistically, I don't think that -- and I mean no

1 disrespect to the Court, but I don't know how you put
2 somebody on release with the condition that they not
3 access the Internet because accessing the Internet can be
4 done from so many different devices and in such an
5 anonymous way as to make it virtually unenforceable. And
6 I think that's the real issue. It can be done from
7 anywhere by so many different devices that I don't know
8 how any supervising agency would enforce that condition.

9 MR. WATKINS: Your Honor, if I may?

10 THE COURT: Yes.

11 MR. WATKINS: The government debriefed Mr.
12 Chansley on a number of occasions. One of the subject
13 matters that was thoroughly vetted and inquired about for
14 a protracted period was how Mr. Chansley could afford to
15 get to Washington, D.C. for the MAGA Man March in
16 September and then again for the -- or in, yeah, and then
17 again for the January 6th event. And the government knows
18 exactly how Mr. Chansley did it. He drove a car. He
19 drove in a car with another individual. The other
20 individual put in money and Mr. Chansley had received \$500
21 in cash from an individual that was named by Mr. Chansley.
22 The government knows who it is. They vetted it out. They
23 understood it. The government knows that Mr. Chansley has
24 been removed from every social media platform. The
25 government also knows that Mr. Chansley had a very limited

1 following on those social media platforms in the first
2 place.

3 The government knows that the defendant is not a
4 man of wealth capable of raising large funds, large amount
5 of money quickly, slowly over time. They know that the
6 defendant is a man of simple means who is not someone who
7 is navigating the Internet on a routine basis except when
8 he's able to garner access to the Internet. His family
9 home is not one, as I understand it right now, that not
10 only doesn't have Internet service now, hasn't had it for
11 a protracted period.

12 The fact is, Your Honor, whether he had access
13 to the Internet or not, Jacob Chansley, the Shaman, the
14 guy with the horns is being not only disinterested in
15 politics and all of that, but he's the last person in the
16 world that anybody who was a part of QAnon would want
17 anything to do with between now and the end of the world.

18 THE COURT: All right. Anything else,
19 Mr. Nelson, you wanted to add?

20 MR. NELSON: No, Your Honor. Thank you.

21 THE COURT: Okay. Mr. Watkins, anything else
22 you wanted to add?

23 MR. WATKINS: Yes, Your Honor.

24 THE COURT: I'll give you the last word.

25 MR. WATKINS: Thank you very much. You know,

1 the government obviously has its job to do. Mr. Nelson,
2 I'm very respectful of, I don't know him, he is in a
3 difficult position right now. He does not know the full
4 extent and nature of the debriefings and all of the miles
5 and miles of footage and information that is available and
6 has been available to the Assistant U.S. Attorney. But,
7 you know, there's two things that are really, really
8 important here. It's disingenuous for the government, for
9 the Department of Justice to say there and to this Court
10 at this time and say there's nothing new, there's no new
11 evidence. We're in a pandemic era. We're conducting
12 hearings before this Court remotely. I don't have the
13 defendant sitting at my side able to whisper in my already
14 compromised ears to tell me in the midst of a hearing, oh,
15 by the way, that flag pole, that finial was on top, it
16 wasn't affixed; if I tilted it down, it would have fallen
17 off.

18 what the problem is that renders the
19 disingenuous nature of the government's representations
20 appalling is that the government knew and if they didn't
21 know, they sure should have because they possessed that
22 flag, that flag pole and that finial since the very day
23 that the defendant voluntarily and peacefully surrendered
24 himself on January 9, that was just as the defendant said
25 he would do when he had called the FBI on January 8th and

1 talked to them on the phone and said, yes, you want to
2 talk to me, I'll talk to you, I'll be there, I'll be there
3 tomorrow, I'll see you then and he showed up and exactly
4 as he said.

5 This is not a man who's off the grid. It's not
6 a man who is trying to hide. It's not a man who has
7 demonstrated criminal background on any level ever. He
8 represented to the Court that he had a ticket in Oklahoma
9 on the way home from the January 6th events and in fact
10 made sure that they got taken care of. It's not
11 outstanding. It's not an issue. A traffic ticket.

12 So the insanity that I'm compelled to embrace
13 here is that the government is going to say, yes, we knew
14 it, we didn't represent to the Court that this finial just
15 would fall off and maybe we didn't know it, but we should
16 have known it, but I'm not going to point to that either;
17 I'm simply going to say what's new. Well, what's new is
18 really a big deal, especially in light of the basis for
19 the decision of this Court at the initial detention
20 hearing.

21 As to the government's representations about the
22 mental vulnerabilities of my client, there's an issue.
23 And I'm the first one to admit that I am probably the
24 least touchy feely and socially sensitive human being in
25 the world. But the fact is there are multiple forms of

1 mental health vulnerability that don't render somebody in
2 need of civil commitment.

3 There are transient fluid mental health
4 vulnerabilities and those vulnerabilities can take a
5 person who falls well inside the bell curve of what you
6 and I and Mr. Nelson may describe as normal and render
7 them because of some stressful or stressor or what they
8 call socio stressor event a person who is well outside
9 that bell curve of normalcy. Be it a transient form of
10 schizophrenia and aggressive or fluid form of Aspergers, a
11 combination, bipolarity, again a combination.

12 What we're trying to do here is to avoid having
13 our client being someone who is not capable and have to be
14 civilly committed. What we're trying to do is maintain
15 the integrity of these proceedings. What we're trying to
16 do is to make sure that justice is served in a fashion
17 which means there is meaning to these proceedings, there
18 is a reason for the government having charged the
19 defendant, there is a reason why the defendant should have
20 the right and the ability to move forward with his defense
21 and his rights under the Constitution as a defendant, but
22 not to have the government put him in a position because
23 they have chosen to misrepresent to the Court the nature
24 and character of a very important element of the Court's
25 decision and simply say, oh, you know, we knew or maybe we

1 should have known, but we didn't do anything about and,
2 you know, that's the basis, he needs to be committed now.
3 He needs to be committed because for a hundred and fifty
4 days, he's been sitting in solitary confinement 22, 23
5 hours a day. On the best day of the most mentally sane
6 and healthy human being in the world, you are going to
7 turn into a blithering idiot in a hundred and fifty days
8 with no end in sight.

9 I want my client to be able to be in a position
10 to confront his own -- the consequences of his own
11 actions, to do it in a learned fashion and to dispose of
12 this case, to maintain the integrity of the disposition
13 for the benefit of the government, for the benefit of the
14 defendant and for the benefit of this Court.

15 THE COURT: All right. The matter is submitted.
16 I'll rule as promptly as I can. Thank you very much,
17 counsel.

18 MR. WATKINS: Thank you, Your Honor.

19 MR. NELSON: Thank you, Your Honor.
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