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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) Case No. 26 CR 291
)
v.)
)
AMIR A. FAGAN, DEMOND)
EDWARDS, and CHASHONN TONEY,) Chicago, Illinois
) June 18, 2026
Defendants.) 11:28 a.m.

TRANSCRIPT OF PROCEEDINGS - HEARING
BEFORE THE HONORABLE KERI L. HOLLEB HOTALING

APPEARANCES:

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9 PROCEEDINGS REPORTED BY STENOTYPE
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1 (Proceedings heard in open court:)

2 THE CLERK: 26 CR 291, USA v. Amir Fagan, Demond
3 Edwards, Chashonn Toney.

4 Counsel, can you please state and spell your last name
5 for the record. We'll start with counsel for the government
6 first.

7 MR. FIEDLER: Good morning, Your Honor, Luke Fiedler
8 for the United States. The last name is spelled F-I-E-D-L-E-R.

9 THE COURT: Good morning.

10 MR. YONAN: Good morning, Your Honor, Jason Yonan
11 appearing on behalf of the United States. That is Y-O-N-A-N.

12 Your Honor, I am the First Assistant U.S. Attorney,
13 and I'm appearing today pursuant to your order that a member of
14 the front office appear at the hearing.

15 THE COURT: Thank you for beginning here, Mr. Yonan.

16 MR. ROSENBLOOM: Good morning, Your Honor, Adam
17 Rosenbloom on behalf of United States. R-O-S-E-N-B-L-O-O-M.

18 And I am the direct supervisor of Mr. Fiedler.

19 THE COURT: Yes. Good morning.

20 MR. VANDENBERG: Good morning, Your Honor, Kees
21 Vandenberg, V-A-N-D-E-N-B-E-R-G, here as the general crimes
22 chief.

23 THE COURT: Good morning.

24 Okay. On behalf of defendants.

25 MR. LEVINSOHN: Judge, good morning. Michael

1 Levinsohn on behalf of Demond Edwards.

2 THE COURT: Good morning.

3 MR. ADAMS: Good morning, Your Honor, Joshua Adams for
4 Chashonn Toney.

5 THE COURT: Good morning, Mr. Adams.

6 MS. NOLLER: Good morning, Your Honor. Lisa Noller
7 for Amir Fagan, who is present.

8 THE COURT: Good morning.

9 Good morning, Mr. Fagan.

10 Okay. So before we begin, I know yesterday we were --
11 counsel, some of us, were together yesterday around 2:40 when
12 the government had filed its motion to dismiss this complaint.
13 That's when I scheduled this hearing.

14 Obviously, the Court has had a little bit more time
15 now to re-review that motion, to look at the exhibits that I
16 didn't have prior to that hearing yesterday. And I do want to
17 say, unfortunately for the Court, that that motion raises more
18 questions I think than it answers for me. I reviewed those
19 exhibits, as I said, personally. Some things are still very
20 unclear to me about what the government is stating is actually
21 incorrect in the original affidavit that was submitted to me
22 and into this Court in support of the complaint that was sworn
23 out and issued by this Judge that resulted in the arrest
24 warrants of individuals in this case. I have some questions
25 about that that I hope that the -- we can address today.

1 Also, I just want to say a couple of other things with
2 regard to this matter. I mean, I was obviously the Judge on
3 duty last week. I received a number of phone calls related to
4 this incident, right when it started happening, Tuesday evening
5 I think I got the first phone call. I received a number of
6 phone calls after that.

7 I know Mr. Rosenbloom is Mr. Fiedler's supervisor
8 because I asked to speak with his supervisor in the afternoon
9 of June the 10th, I believe, I think is the first time I spoke
10 with him because I was receiving inconsistent, I would say,
11 information. I would ask questions about who was in custody,
12 when, how long they'd been in custody, are they in federal
13 custody, which are information that only I can get provided to
14 me from the U.S. Attorney's Office. Right? I don't know that
15 as the Court. I rely on them. It's part of an understanding
16 with the Court that there's certain information that's supposed
17 to be conveyed to the emergency duty criminal Judge when it
18 occurs. And I had many conversations, but as I said, I was
19 receiving inconsistent information during those conversations.

20 And I raised that issue to Mr. Rosenbloom myself, and
21 we talked about that. Then we get to when I get the complaint,
22 which came not immediately after this incident, that was
23 Tuesday. We swore out the complaint, I believe it's -- I think
24 it was maybe now the 11th, I want to say the morning of the
25 11th I think is when it was sworn out, which is Thursday. This

1 incident I first received a call was the evening of Tuesday of
2 last week. And I have my own notes from all of these things.

3 And so I was raising concerns early, and then we come
4 to this week when early in the week some of this counsel was
5 before me, Mr. Fagan was before me for his detention hearing.
6 That was on this Tuesday. I want to get my dates correct,
7 Tuesday of this week in the afternoon, right? We were all
8 together then.

9 And the government was presenting evidence to me
10 proffering to me about the weight of the evidence of this case.
11 I then had a preliminary hearing scheduled with Mr. Adams'
12 client this morning at 10:30 it was originally scheduled for,
13 for Mr. Toney's preliminary hearing because Mr. Toney had
14 waived detention. He's been in custody since his initial
15 appearance with me, so yesterday afternoon.

16 And we had sent out an email because I had some issues
17 with accessing video. It took a while, right? I wanted to
18 look at some video during the hearing that involved
19 Mr. Hagan -- Mr. Fagan for his detention hearing, and I didn't
20 want that to happen again.

21 So my courtroom deputy sent out an email to counsel
22 for the government indicating that in advance of the
23 preliminary hearing that was supposed to take place today at
24 10:30 a.m., that I wanted any video or exhibits that would be
25 used, which I do this all the time in a lot of my hearings for

1 detention hearings, but certainly if there's going to be a
2 preliminary hearing, I thought they might have exhibits that
3 would be used to be shared with the government and with the
4 Court by noon yesterday. And then moments before that time, I
5 get an email, which says the complaint is being dismissed.

6 What? The complaint is being dismissed? Okay.
7 Nothing further, not all criminal counsel for the defendants
8 was listed on that email, so I didn't know if the complaint was
9 being dismissed as to one defendant, all defendants, what was
10 the government going to be doing?

11 And then I didn't receive that complaint, the
12 dismissal for the complaint, the motion, until moments before a
13 2:00 o'clock hearing that I scheduled yesterday, which brings
14 us to today.

15 And, obviously, the Court takes all this
16 extraordinarily seriously, as I indicated yesterday. That's
17 why I wanted people here in positions from the front office
18 because there's references in this motion to dismiss to the
19 front office having certain information at certain times and
20 the prosecuting team having certain information at certain
21 times.

22 I will be frank. I've never seen something like that
23 in a filing with the Court. I know I've only been on the bench
24 a few years, but I have been up here for a few years, and I see
25 a lot of criminal things. You know, we're on duty all the

1 time. I've never seen something like that. So I'd like to
2 understand that better. That's why I wanted someone here from
3 the front office because, as I said, I have more questions
4 about this.

5 So one of those questions that I would like for us to
6 address is I just want to understand, in the civil context we
7 have Rule 11 sanctions, right? You can't bring something
8 before a Court without doing some due diligence, right? I know
9 that from my civil practice. But here what's brought before
10 the Court has such -- I would say more grave consequences,
11 right? We're going to be possibly taking away someone's civil
12 liberties based upon what information is provided to this
13 Court, and the Court relies upon that information, and that's
14 what I did here.

15 And so it's concerning to this Court, and I want to
16 understand what due diligence was conducted by the U.S.
17 Attorney's Office to confirm that the information contained in
18 the affidavit in support of the criminal complaint was accurate
19 when it was submitted to the Court last week. What was the
20 review process here? What failed? It seems like when I read
21 the motion to dismiss and, again, it's unclear that there is
22 video -- lots of different videos. There's multiple videos it
23 is clear to me now because I saw one video in a detention
24 hearing, and there's other videos that were attached to this
25 motion to dismiss. But I don't know who viewed the videos or

1 when or if anybody from the U.S. Attorney's Office viewed those
2 videos in advance of the complaint being submitted.

3 So that's one thing I would love, if we could talk
4 about that first because that is a serious concern because, as
5 judges, we all know in this building we have to rely upon the
6 U.S. Attorney's Office, right? I don't have -- I'm not privy
7 to that information. I'm only privy to what you guys provide
8 in these affidavits. I swear them out under oath that they are
9 true and accurate. And now I'm -- looks like I'm being told as
10 of yesterday that it wasn't true and accurate.

11 So I'd like that to be addressed first. I don't know
12 who's going to address that from the U.S. Attorney's Office,
13 but if we could talk about that first I would appreciate it.

14 MR. FIEDLER: Your Honor, may I approach?

15 THE COURT: Yes, of course.

16 MR. FIEDLER: I'm happy to address that first. Thank
17 you, Judge.

18 So to address the Court's first concern about the due
19 diligence and the process by which the existence of the video
20 was -- the process by which I was made aware of the video.

21 THE COURT: Which video? I mean, there's multiple
22 videos.

23 MR. FIEDLER: The video referenced as Exhibit 2 in the
24 government's motion to dismiss. That video was provided to me
25 for the first time at approximately 4:22 p.m. on June 16th.

1 As Your Honor recalls, we were -- I was before the
2 Court until approximately 4:00 p.m. that day for Mr. Fagan's
3 detention hearing. As soon as I, counsel of record, and the
4 prosecuting attorney for this case viewed that video, I
5 immediately took steps to obtain approval to dismiss the
6 complaint.

7 Your Honor, that does not happen instantaneously. I
8 do not have the ability to do that without further input from
9 my office. I immediately took steps to inform my supervisors,
10 who have introduced themselves and are here before Your Honor,
11 Mr. Rosenbloom and Mr. Vandenberg.

12 We then convened a meeting with the front office the
13 very next morning, that was yesterday, and approval was
14 obtained. And so I was mindful of the Court's separate
15 deadline of 12:00 p.m. to provide the Court with exhibits for
16 this preliminary hearing as to Mr. Toney. Obviously, with the
17 new approval that we had obtained, we were working on a filing
18 to get before Your Honor as promptly as we could. When it
19 became apparent that we were not going to be able to get that
20 filing on the docket before the noon deadline, I did inform
21 your courtroom deputy that we would be moving to dismiss the
22 complaint.

23 And I apologize for the late nature in which that
24 filing appeared on the docket before the 2:00 p.m. hearing that
25 you convened. Obviously, we were working well in advance to

1 get that on the docket as quickly as we could.

2 So I am here, and we are here to dismiss the complaint
3 because as soon as I saw it, it obviously called into question
4 portions of the evidence that was sworn out, as Your Honor
5 referenced in the affidavit supporting the criminal complaint.

6 I do not have the -- all the answers as to -- as to
7 what the video in Exhibit 2 -- what is entirely going on, where
8 it came from. We are still looking into that. And the -- my
9 decision in consultation with my supervisors and the front
10 office was while we get our arms around that, one thing is
11 immediately clear, which is that this complaint needs to be
12 dismissed in its entirety. And that's what we took steps to
13 do.

14 So I -- that is I, as the prosecuting attorney, and on
15 behalf of my supervisors, whom I consult with, that is my
16 response to when I learned about this video and when I first
17 viewed it.

18 THE COURT: How did it come to you at 4:22 right after
19 that detention hearing that all of a sudden you got this video
20 that you've never seen in the time leading up to that?

21 MR. FIEDLER: That's correct, Your Honor. I learned
22 about the video. I requested a copy of it. It was emailed to
23 me. That is, I believe, Exhibit 1 to the motion. And that
24 email was sent to me at 4:22. And I had just returned to my
25 desk, Your Honor, from our detention hearing with Mr. Fagan.

1 And I viewed it shortly thereafter that, and I immediately made
2 the video available to my supervisors, and we, as I said, put
3 in process the motion of dismissing this complaint.

4 THE COURT: Who informed you about the video?

5 MR. FIEDLER: I was informed by Mr. Rosenbloom and
6 Mr. Vandenberg.

7 THE COURT: So they had seen the video?

8 MR. FIEDLER: They had not, Your Honor. We were
9 informed of the existence of the video. And I should -- that's
10 my understanding. Of course, if Your Honor has questions for
11 either of them, you know, they are more than willing to answer
12 those questions. But when I learned about the video on the
13 16th --

14 MR. YONAN: May I approach, Your Honor?

15 THE COURT: Sure.

16 MR. YONAN: Your Honor, I think -- and I think I'm
17 here in the capacity of I was the first part of the -- not part
18 of the prosecution team, I did not review the complaint in this
19 case. I was not a direct supervisor in the case. I did
20 become -- excuse me, I became aware of the existence of the
21 video on Friday, the 12th.

22 THE COURT: Right. It looks like paragraph 6 in the
23 motion to dismiss?

24 MR. YONAN: Right. So the United States Attorney and
25 I were attending an antiviolenace meeting with some supervisors

1 from other agencies. After that meeting we had a sort of side
2 meeting with another -- with a supervisor from an agency who
3 mentioned the existence of this video from the shooting. It
4 was my -- I did not -- I was unaware that the prosecution team
5 did not have the video. And the context of the conversation
6 about the video was that the video was going to be released at
7 some point through COPA, the Civilian Office of Police
8 Accountability. And the concern that the body worn camera that
9 the agents were wearing was not -- this was only going to be
10 this one released video and not another release of video.

11 So we had decided that we would -- I would talk to the
12 prosecution team at any detention hearing about potentially
13 playing the body worn camera so there's a full context for
14 everything that occurred, if that video were to be released.

15 I was intending to -- I did speak with Mr. Vandenberg,
16 Mr. Fielder's supervisor; I did not speak with him on Friday
17 afternoon. I did not reach him -- I could not reach him on
18 Monday. I don't believe he was in the office, I could be wrong
19 about that, but I did not reach him on Monday. I had a meeting
20 with him and others on Tuesday morning where I thought I would
21 mention it to him. But I was not aware at that time the
22 prosecution team did not have the video.

23 THE COURT: He was going to have a detention hearing
24 with the Court, too, though, right?

25 MR. YONAN: I was not aware that they did not have the

1 meeting, Your Honor -- that they did not have the video. If I
2 knew that they did not have the video, that's something that I
3 would have brought to their attention. But I was not aware
4 that they did not have the video.

5 THE COURT: Should they have had the video?

6 MR. YONAN: They should have had -- clearly, Your
7 Honor --

8 THE COURT: That's what I'm not understanding is why
9 did no one see this video until it was on the, as you define
10 it, prosecution team, which I don't know why we have these
11 defined terms. I can ask you more about that.

12 MR. YONAN: Sure.

13 THE COURT: That's one of my questions in here.

14 But, right, that they were unaware of this video, no
15 one had seen this video that was obviously, as you said, people
16 in the chain that were putting together the criminal complaint
17 in the matter.

18 MR. YONAN: Correct. I can't answer why they didn't
19 have the video, Your Honor. There is not particularly good
20 reason they did not have the video. Should have had the video.
21 Even if they didn't have the video at the time the complaint
22 was being prepared, which sometimes happens -- Your Honor, this
23 was a very hectic situation involving different law enforcement
24 agencies working under incredible time constraints under
25 dangerous circumstances. You know, they didn't -- they didn't

1 have the video, they should have had the video. Maybe they
2 couldn't have had the video at the time of the complaint. We
3 need to work through that because that was a problem and that
4 obviously, if they had the video, I think a lot of these
5 issues, hopefully, would have been solved. But they didn't
6 have the video. And so that's -- that's the problem.

7 When we saw the video and understanding the context
8 of, we should have had the video, and, you know, the video
9 should have been presented to Your Honor, that's when we made
10 the decision we would dismiss and make the request of Your
11 Honor that that be without prejudice.

12 THE COURT: Okay. I obviously want to hear from
13 defense counsel if they have anything that they would like to
14 say to the Court as to this one concern. There are a couple of
15 other questions, right, that I have, which maybe I can go over
16 since you're up here, Mr. Yonan.

17 MR. YONAN: Sure.

18 THE COURT: First about me understanding this
19 differentiation like we were just talking about between this
20 prosecution team and the front office and understanding who
21 knew what when. There's a lot of that in this motion to
22 dismiss. I think you've gone over some of the that, but to me
23 it's the U.S. Attorney's Office, right?

24 MR. YONAN: Right.

25 THE COURT: That's who is bringing this to the Court,

1 right?

2 MR. YONAN: Sure.

3 THE COURT: And many of the pleadings are -- I
4 understand there's an AUSA on the cases, but I don't under --
5 that's what's confusing to me, this differentiation between
6 according to the front office as to certain things, and then
7 there's a prosecution team having insight into certain things.
8 And it just seems like this divide that I didn't -- that's just
9 surprising to me like reading through this and trying to
10 understand how that worked in this case when the Court, in
11 specifically asking questions of Mr. Fiedler, had asked what's
12 the -- when I would call and ask for these status updates,
13 right, and where were we before I asked to speak with the
14 supervisor.

15 I was told that the front office was involved. That's
16 what I was told about these charging decisions. I was told
17 that on the phone. And then I see this, and it's like no
18 one -- it's kind of like who's on first?

19 I'm very confused. And that's why I wanted to talk
20 with someone directly because as you're telling me now, you
21 know, that you weren't -- that you weren't personally involved
22 with that, so who in the front office was?

23 MR. YONAN: So I was not personally involved, Your
24 Honor. I was actually out of the office when this was
25 occurring.

1 THE COURT: Okay.

2 MR. YONAN: I can check with the team. It may have
3 been that the criminal chief had been involved, but I can't
4 answer that with personal knowledge.

5 THE COURT: Okay.

6 MR. YONAN: What I can tell you is when we use the
7 term "prosecution team," we're not trying to distinguish
8 between people in the U.S. Attorney's Office, what we're trying
9 to convey is these are the folks that are actively working on
10 the case. We felt it was important to bring to your attention
11 that I did become aware of the video at a date, on Friday.
12 That's why we distinguished between the front office and the
13 prosecution team.

14 Prosecution team did not learn about it at that time.
15 I did as a member of the front office learn about it at that
16 time. Obviously, there was a delay in me communicating that to
17 the supervisor. And I attribute that -- that's -- certainly, I
18 take responsibility for that, Your Honor, but I will tell you I
19 thought that they had the video. I had every reason to believe
20 that they had the video, and the video was incorporated into
21 everything that was happening.

22 That's part of the disconnect, but we're not trying to
23 place blame on one or the other, but we do want to convey to
24 the Court that one group, the front office, had become aware of
25 the video, and the other group had not.

1 THE COURT: Okay. I guess I'd like to hear from
2 counsel for the defendants, obviously, too.

3 Thank you. Thank you for being here, Mr. Yonan.
4 I don't know who wants to speak first.

5 MS. NOLLER: Your Honor, Lisa Noller for Defendant
6 Fagan. I'll go first.

7 So there's obviously very little case law on what to
8 do here because this is a pretty unique circumstance, one that
9 I've never seen in over 30 years of practicing in this court.

10 A couple of things are clear. Rule 48 does allow you
11 to dismiss a complaint, and the Court has discretion to
12 supervise cases on its docket. There's Supreme Court case law,
13 *Hasting* and *Griffin* are two cases that give you a lot of
14 discretion on whether to dismiss, whether to dismiss with
15 prejudice or without prejudice, whether to sanction the
16 government for its conduct here, or whether to impose discovery
17 sanctions such as limiting testimony going forward.

18 And you know, any decision you do make will -- do make
19 will be reviewed with an abuse of discretion standard.

20 So what to do, I guess I'll address that next. So
21 what is clear when one watches the video that was displayed, it
22 doesn't have an exhibit sticker, but that was displayed for
23 Your Honor during Mr. Fagan's detention hearing, is that it
24 depicts two individuals who have been identified under oath in
25 a sworn complaint as being Mr. Edwards and Mr. Fagan. That's

1 in paragraph 13.

2 The paragraphs in the complaint flow from there, Your
3 Honor. That identification of Edwards and Fagan is joint, and
4 it is pervasive then throughout the rest of the complaint that
5 describes the conduct that is then -- that is then charged by
6 complaint under oath.

7 We know that the complaint was presented to you on
8 June 11th. As early as June 12th now we know that there's at
9 least a discussion of the description of the video, which is
10 Exhibit 2. There also was at least one conversation between
11 the ATF and the front office to say that more evidence exists.

12 By June 15th, Exhibit 4 has now been sent, which is
13 the email that describes the flight from the scene. The reason
14 those different pieces of evidence are important, Your Honor,
15 is because Exhibit 2, which has now been tendered to you, shows
16 that Mr. Edwards is not Mr. Edwards.

17 THE COURT: That's what I believed after the detention
18 hearing that I sat through and of -- have Mr. Fagan here in
19 court with me and watched other videos.

20 You know, Mr. Fagan, I insisted on seeing video
21 because I was tendered one still photograph that was difficult,
22 I think, you know, not the best still photograph from the
23 video, so I asked to view certain video that had already been
24 tendered to the defense counsel. With defense counsel present
25 and with Mr. Fiedler present, we watched that video together.

1 And that's exactly what I believed too.

2 Yeah, when I looked at Exhibit 2, that's why I was
3 even confused by the motion to dismiss that who they're talking
4 about, Exhibit 2 is -- depicts the Edwards shooting. No, it
5 does not. I don't believe, does it? Well --

6 MS. NOLLER: Or it does. Mr. Edwards is not both
7 people. That's what we now know, or at least what appears to
8 be the case. And so where I want to go from here, Judge, is
9 exactly where you went, which is that when you ordered
10 Mr. Fagan detained, a not insignificant portion of your
11 decision, I believe, as you stated on the record, was based on
12 the nature and circumstances of the offense and what you had
13 seen in the video, and clearly what you had been presented by
14 sworn affidavit.

15 What DOJ is now doing is by trying to dismiss this
16 case without prejudice and -- and to characterize the evidence
17 as, quote, appearing inconsistent and potentially inconsistent,
18 Your Honor, I think is just sad, if nothing else. It may be
19 worse. It is not -- Edwards can't be both people. And so the
20 complaint that puts my client with Mr. Edwards, when it is not
21 Mr. Edwards, also calls into question the identification of
22 Mr. Fagan in that same affidavit because the affidavit is, at
23 minimum, reckless and potentially -- and potentially worse.

24 So what I think DOJ is trying to do here is to have
25 their cake and eat it too. So they want to dismiss the

1 complaint without prejudice, either so they can find a
2 different agent to swear to a different set of facts and then
3 try again, or worse, potentially to circumvent this Court
4 altogether given the conduct that's happened here and try to go
5 to the grand jury.

6 At least in the grand jury, there will be another set
7 of people who can potentially, if it's presented to them,
8 assess the inconsistent evidence and decide what to do with it.
9 The justice manual does -- you know, there is a policy that DOJ
10 is supposed to present exculpatory evidence to the grand jury.
11 We don't know if they'll do that or not. And I don't know,
12 just to be clear, that they are going to the grand jury. But
13 one way to fix the transgression that's before Your Honor is to
14 use the power that you have and to dismiss this case with
15 prejudice so that at least what's happening in this court does
16 not repeat itself. And you can also sanction the DOJ. And
17 that's -- that's at a minimum what we would ask be done.

18 I guess I'm going to say one more thing. The
19 prejudice to our clients, at least to Mr. Fagan, you know, it
20 is there, right? If he was charged by a complaint that is not
21 true and then spent four or five days in custody when DOJ
22 potentially could have remedied this at least before his
23 detention hearing by coming forward and saying there's
24 inconsistent evidence, or at a minimum sharing it with the
25 prosecution team. I've never heard of such a thing where the

1 prosecution team isn't told by the front office that there's
2 additional evidence that potentially could be material, and a
3 shooting at the scene of this chaotic event is clearly material
4 to the proceedings.

5 THE COURT: Okay. Thank you.

6 Does the government want to say anything further about
7 the issue on the dismissal being with or without prejudice? I
8 know you guys have moved, obviously, for it to be without
9 prejudice, but to address Ms. Noller's argument.

10 MR. FIEDLER: Yes, Your Honor, briefly. I think
11 framing the issue as Ms. Noller just did about whether Your
12 Honor can or should dismiss this matter with or without
13 prejudice, I think, as an initial matter, I want to address one
14 kind of threshold issue. Your Honor yesterday at our
15 telephonic hearing expressed a concern that the affiant for the
16 affidavit, who is a special agent from the FBI, had committed
17 perjury.

18 THE COURT: Based on your motion. That's all I had in
19 front of me, right? I hadn't even seen the exhibits, and I
20 raised a concern, yes.

21 MR. FIEDLER: So my response, Your Honor, I think it
22 will be helpful to give a brief bit of background. But first I
23 want to reiterate that it is not the position of me, the
24 prosecuting attorney, nor is it the position of my office that
25 that special agent committed perjury. There's no indication

1 whatsoever that he inaccurately described information that was
2 provided to him at the time that we were preparing the
3 complaint, nor is there any indication to us that he has
4 deliberately or recklessly disregarded the truth.

5 THE COURT: Did he review the videos we're talking
6 about?

7 MR. FIEDLER: I don't have the answer to that, Your
8 Honor.

9 THE COURT: Okay. Well, he's not here, is he? I have
10 a list I think of who is here. Is that agent present in court?

11 MR. FIEDLER: I don't believe he is.

12 THE COURT: Then I can't ask him.

13 MR. FIEDLER: And, Your Honor, that is -- that is why
14 we are here. Because my primary concern upon seeing the video
15 that's depicted in Exhibit 2 is, first and foremost, to get
16 this right, okay? And to understand and reassess pieces of
17 evidence that we had previously thought we understood, that are
18 now -- it appears to be that that's not the case. We have to
19 get our arms around that. We still have not done that. That's
20 an ongoing thing.

21 So I wanted to just reiterate that that special agent,
22 as Mr. Yonan referred to, is receiving information, this is
23 inherent in the nature of any fast-moving investigation. That
24 information is arriving incrementally.

25 THE COURT: Right. There are other reactionary

1 investigations, Mr. Fiedler, that have occurred. As Ms. Noller
2 just referenced, she's been involved in criminal cases here for
3 almost 30 years. She's never heard of this. Never seen this.
4 I think that we all know, as other colleagues in the district
5 court bench have recently mentioned, that there is and always
6 had been a presumption of regularity. This Court is very
7 concerned that I cannot rely on the information that is
8 provided to me either from the U.S. Attorney's Office or from
9 agents that I'm -- when I'm swearing out an affidavit now,
10 right?

11 MR. FIEDLER: Yes, Your Honor.

12 THE COURT: You stepped up. Go ahead.

13 MR. VANDENBERG: Mr. Vandenberg on behalf of the U.S.
14 Attorney.

15 We understand Your Honor's concerns. We're here today
16 because of those concerns. That's why we're here. In terms of
17 what usually happens and why it's a little different here, I
18 just want to give a little bit of background on that.

19 There's obviously two stages of this initial set of
20 facts, right? There's the assault of the ATF agents, and then
21 following it in the course of the flight, in the immediate
22 aftermath there are officer-involved shootings.

23 What happened here is a little bit of background
24 because it becomes very relevant in terms of the FBI agent's
25 involvement here.

1 ATF tries to do the right thing. They bring FBI in as
2 an independent agency to deal with that, so ATF is not bringing
3 charges in a case where they have officers involved in the
4 shooting, right? So you're bringing FBI in as a matter of
5 independence and to allow that level of independence, right?
6 That is the good faith rationale for that.

7 Now, that does result in a situation, and we
8 acknowledge that FBI now has to rely -- you have an agent
9 coming in the last minute here, they're trying to wrap their
10 hands around the fact, and all they can do is take the
11 information that's being given to them from the people on
12 scene, and it becomes complicated, right, because they're also
13 investigating two things at once. They're investigating the
14 defendants in this case, and they're making sure they
15 investigate the officer shootings, right?

16 So you have limited access. And what happens at that
17 point is the FBI agent puts down -- gives our office, gives
18 Your Honor the information that they're giving, and they're
19 trying to attribute it. And we try to do that throughout the
20 affidavit. They're saying where they're getting this
21 information from.

22 Now, as happens in any fast-moving case and
23 exacerbated here by having an independent authority come in,
24 you're going to keep getting evidence, right? Videos are going
25 to be found, phones are going to be downloaded. More

1 information will come out. Witness are going to be
2 interviewed. They couldn't --

3 THE COURT: You made the determination to submit the
4 complaint, though. When you did --

5 MR. VANDENBERG: I understand, Your Honor.

6 THE COURT: Right. And if you didn't have the full
7 information or the information was still in flux or too fluid,
8 why present the complaint to the Court at that time?

9 MR. VANDENBERG: Well, Your Honor, that's -- that
10 is -- and I can actually respond to that in a regularity
11 context. That is the case in almost every case that goes
12 through our office. When you have reactive cases where a
13 complaint is being sworn out in a one-day period versus the
14 30 days that it takes to truly assess all the evidence, to go
15 through every piece of it. And what is always going to be that
16 case is in that complaint on the initial, it's not going to be
17 the full investigation. It never is. It is going to be --

18 THE COURT: Right. But it needs to be accurate,
19 right?

20 MR. VANDENBERG: It needs to be accurate, yes. To
21 give an example, right, it can be --

22 THE COURT: I'm not saying there couldn't be charges
23 brought later, there's additional evidence. Or you go to a
24 grand jury, you supersede an indictment. I understand how that
25 works. The investigation is not complete, but what is brought

1 to the Court should be accurate, right?

2 MR. VANDENBERG: Absolutely.

3 THE COURT: That's all I'm saying.

4 MR. VANDENBERG: We agree. We agree. And we have no
5 reason to believe that the members of the office that believed
6 anything was inaccurate. We have no reason to believe that the
7 FBI agent, who swore it out, believes anything was inaccurate.
8 He was sharing what he was learning from the people on the
9 scene with Your Honor in that affidavit. Everything in there
10 is couched accordingly. And it is limited as a result, right?
11 This isn't, let alone, trial, let alone the indictment stage
12 where we can actually show --

13 THE COURT: But it talks about very specifically -- do
14 you want me to start quoting from the affidavit? It talks very
15 specifically about what is shown on video over and over.
16 That's not relying on the other agents. It specifically
17 says -- I'll just go to some of the paragraphs, right?

18 MR. VANDENBERG: That's correct, and he --

19 THE COURT: Right? Wait. It says: According to ATF
20 agents -- this is paragraph 12.

21 According to ATF agents with knowledge of the
22 investigation and -- and, not just agents -- and video of the
23 incident, here's what happened. And it goes on to tell me what
24 happened.

25 Then later on, paragraph 14: According to ATF agents

1 with knowledge of the investigation -- oops, and video of the
2 incident. What happened, very specific, referencing specific
3 defendants here. What's going on, which I think there's a
4 video of that someone has looked at.

5 MR. VANDENBERG: That is correct, they had looked at
6 that video. And what I'm saying --

7 THE COURT: I don't know that, that the agent who I
8 put under oath and swore to this affidavit looked at these
9 videos.

10 MR. VANDENBERG: Well, the video --

11 THE COURT: That's what I've already raised here in
12 court, and nobody can tell me if he actually did.

13 MR. VANDENBERG: He has, Your Honor.

14 THE COURT: Before we swore out the complaint?

15 MR. FIEDLER: The video that --

16 THE COURT: There's multiple videos. There's not one
17 video. We need to be crystal clear when we speak about this
18 case. As we all know now, there are multiple videos, right?
19 That's what you were all just saying, I've seen certain videos.
20 There's videos attached as an exhibit to this motion to
21 dismiss. There's not one video.

22 I don't know what other videos there are. There could
23 be other videos that aren't referenced in your motion to
24 dismiss and that it might be a part of this complaint. I have
25 no idea because I've never seen all the videos, right?

1 MR. ROSENBLUM: Your Honor, Adam Rosenbloom. So
2 where the complaint references a video --

3 THE COURT: Which is throughout, as you know, in many
4 paragraphs. I just referenced a couple of them.

5 MR. ROSENBLUM: It's referenced -- the video is
6 referenced with respect to the robbery itself. There's no
7 reference to the video with respect to the apprehension and
8 shooting of Edwards because we didn't have that video. The
9 videos that are referenced in the complaint, we had the agents
10 review, Mr. Fiedler and I reviewed on teams at least some of
11 the video, the video that depicts the robbery itself. We had
12 access to that.

13 Where a video is referenced in the complaint, it is
14 because the video was reviewed. If there's not a video
15 referenced in the complaint, then, as Mr. Vandenberg said, the
16 reliance is on whatever the attribution is pointing to.

17 THE COURT: So there is video -- looking at
18 paragraph 16 right now, which is about Mr. Toney, so Mr. Adams'
19 client, Mr. Toney that he attempted to flee in the Dodge Dart,
20 driving a Dodge Dart at a high rate of speed towards AT&T
21 vehicles that had lights and sirens activated. There's video
22 of that, I assume, right?

23 MR. ROSENBLUM: That is correct, Your Honor.

24 THE COURT: But there's no video of the Dodge Dart
25 impacting the ATF undercover vehicle that was occupied by the

1 ATF agents?

2 MR. ROSENBLUM: At this point, I have not seen any
3 video of an impact, that's correct, your Honor.

4 THE COURT: Okay. I don't know if we're done or if
5 there's anything further that you'd like me to hear on this
6 dismissal with prejudice or without prejudices issue.

7 MR. ROSENBLUM: I guess one point to respond to some
8 of the points that Ms. Noller made about the video. I wasn't
9 at the detention hearing, but I'm aware of what happened. I'm
10 aware of the video that Your Honor saw.

11 THE COURT: Yes.

12 MR. ROSENBLUM: And I don't want to concede that
13 these two videos depict different people. I can see that
14 identification where this is ultimately charged may be a
15 difficult issue at trial with respect to Defendant Edwards.
16 That is not true with respect to Mr. -- with Defendant Fagan.

17 Your Honor can see the face of the defendant -- of
18 Mr. Fagan on the video. You saw the screenshot. That's a --
19 that is a video. It doesn't rely on the credibility of any
20 agent or any witness. That is evidence that is sort of
21 separate from any issue with this video of the apprehension of
22 Mr. Edwards. That can't be -- there's nothing that can be
23 imputed back to cause a problem with that identification.
24 There's no prejudice there from keeping the case alive in that
25 respect. It's is a different video, and it's a different

1 issue.

2 And I think that's an important point to make. The
3 evidence that Your Honor saw at the detention hearing,
4 especially with respect to Mr. Fagan, remains the evidence in
5 the case and remains very strong.

6 THE COURT: Is there something else? I'm sorry, it
7 looks like someone else wants to speak.

8 MR. VANDENBERG: Finally, Your Honor, just as to the
9 matter of prejudice, the test for prejudice is whether or not
10 the government is dismissing in bad faith.

11 THE COURT: Right.

12 MR. VANDENBERG: That's not the case here. Again, the
13 prosecution team, upon identifying any inconsistencies
14 immediately disclosed to the Court, immediately took
15 appropriate action here in moving forward. And all we're
16 asking for is for an opportunity to actually investigate the
17 full breadth of the case. That's it. None of that's being
18 done in bath faith, and therefore we don't believe prejudice is
19 warranted here.

20 THE COURT: Okay. Is there anything else from any of
21 the defense counsel?

22 MR. ADAMS: Yes. Good morning, Your Honor, Joshua
23 Adams for Mr. Toney.

24 Judge, government said that it first heard about
25 the -- this video on Friday, the 12th, and now they're telling

1 us that they immediately took action. But they let Mr. Toney
2 sit in jail for over the weekend while they knew that this
3 video existed.

4 According to the complaint, in paragraph 16, it says,
5 "According to the video of the incident, Toney attempted to
6 flee in a Dodge Dart and then later on that he impacted the
7 vehicle."

8 Then, if we look in the government's motion to dismiss
9 on paragraph 11, which aspects of the description of Toney's
10 flight in Exhibit 4 appear to be potentially inconsistent with
11 the description of the flight set forth in paragraph 16.

12 So I think it's a -- it's a direct contradiction, and
13 it was an incorrect statement made under oath to the Court.

14 I join Ms. Noller's request that this be made with
15 prejudice. I don't think the government is acting in bad
16 faith, but I think that there was a material misrepresentation
17 made under oath to this Court. And I think there should be a
18 punishment for that.

19 I think the only way to prohibit this kind of action
20 in the future, any way to ensure that agents are truthful with
21 the Court and the U.S. Attorney and with defense counsel is to
22 have some sort of repercussion for this conduct. And I think
23 the most serious repercussion is dismissal with prejudice
24 because then it imputes the seriousness of the conduct here,
25 which I've been in this building for 20 years, I clerked for a

1 Judge, and I worked for different people. I've never seen
2 something like this ever happen. It is extremely serious.
3 There is no case law on this issue because of the seriousness
4 of this. And serious conduct requires serious action. And I
5 think the only remedy here is dismissal with prejudice.

6 Thank you, Your Honor.

7 THE COURT: Thank you.

8 The government is up again.

9 MR. VANDENBERG: Yes, Your Honor, just to respond to
10 that. Again, the government does not concede that there's
11 material representation as to that. When we write in there
12 that it is potentially inconsistent, we're not trying to be
13 cute. We're not. I know Ms. Noller objected to that language.
14 What that language is, is we need to investigate this.

15 Obviously, we have one interpretation of what happened
16 that was shared with the FBI agent, which they conveyed to Your
17 Honor. Again, in a manner that we have no reason to believe
18 was anything but accurate in terms of how it was conveyed to
19 them. And we have someone who appears to be a witness to the
20 case giving a summary. We need to interview that person and
21 find out the full, what exactly that means, what that is.
22 There were multiple witnesses at the scene. To the extent
23 there's other video we haven't seen, we haven't seen it.
24 There's no misrepresentation.

25 THE COURT: Right. But as I started this hearing, and

1 I don't mean to be difficult or flip, but that's why I asked,
2 what due diligence was done by the U.S. Attorney's Office to
3 confirm what was being presented to me in its affidavit in
4 support of this criminal complaint was accurate?

5 I asked about the review process. You keep saying we
6 haven't done the investigation. No, that's what you keep
7 telling me, the investigation is incomplete. We need to figure
8 stuff out. Then why present this complaint to me with an
9 arrest warrant for these individuals, who were taken into
10 custody and did sit in custody for about a week. I think,
11 right, Mr. Toney was in custody for a full week, right?

12 And then come before this Court for a detention
13 hearing related to Mr. Fagan that took place on Wednesday
14 afternoon, and not even 24 hours after that filed this motion.
15 I think that this raises concerns of this Court. That's why I
16 started this hearing about what was done in advance before we
17 take this step of presenting this complaint to me, having it
18 sworn out, and these individuals' liberty being impacted,
19 right?

20 If the investigation wasn't complete, and it was fluid
21 and we didn't know what everything was going on, and we need
22 to, you know, put together our evidence, why -- why submit this
23 complaint to me last Thursday?

24 MR. VANDENBERG: To respond, Your Honor. I think you
25 did hear about some of that diligence today. You heard about

1 an AUSA and a supervisor reviewing video of the actual criminal
2 act that is the foundation of this investigation, the assault
3 of the ATF agents and the attempted robbery of them at
4 gunpoint. They reviewed that.

5 Your Honor talked about the timeline, which I
6 understand was frustrating. And, again, I've attempted to
7 convey in some way that we were going through two levels
8 because FBI was brought in as an independent agency, and they
9 were getting their information from ATF. That period took a
10 lot of follow-up questions from our office to get to the level
11 of detail that we were able to provide to Your Honor.

12 That is the diligence. Is it complete? Absolutely
13 not. Almost no complaint in a reactive matter that goes before
14 a magistrate judge is complete.

15 Now, obviously, this has a fair amount more complexity
16 because of the number of individuals involved and, obviously,
17 it was important to move forward given the severity of the
18 conduct at issue here. And that's why it went forward.

19 But, yes, we're always going to keep investigating.
20 We do that after every single complaint, in between the
21 complaint and the indictment stages. And then continue, as
22 Your Honor knows, through the trial stage --

23 THE COURT: Right.

24 MR. VANDENBERG: -- to continue to investigate.

25 We became aware, and I know we had the detention

1 hearing beforehand, and that detention hearing was done without
2 any knowledge of any potential conflict of any evidence being
3 presented to Your Honor. Okay. The existence that the front
4 office -- I'm so sorry -- the existence that some people in the
5 office may have known about the video --

6 THE COURT: Well, we clearly know that, right?

7 Mr. Yonan said he knew about there was some video as of Friday.

8 MR. VANDENBERG: Yeah, I understand that, Your Honor.
9 And that's why we took the steps which I acknowledge is unusual
10 to try to track where that information came. And I think the
11 reason for that is it reached a juncture in which the people
12 with the knowledge of the affidavit and the people with the
13 knowledge of the video met and truly didn't even realize that
14 there was any conflict until, again, Mr. Fiedler received the
15 actual video, and we were able to review it at that time, after
16 4:00 o'clock two days ago.

17 So that's why we're trying to track that through and
18 to show Your Honor that we're not trying to hide the ball at
19 any point during the course of this process. And that as soon
20 as we did it, we took steps to remedy it, to bring it to Your
21 Honor's attention, to disclose it and to keep moving forward
22 with the investigation.

23 Again, that is all we ask the opportunity to do here.

24 THE COURT: I don't want to misspeak for Mr. Yonan,
25 but it did seem like he thought, when he became, you know,

1 someone informed you of the existence of these additional
2 videos, right, on Friday, that is referenced in the complaint,
3 and I think as you talked about here today, that you thought
4 that the team working on the case would have seen this video,
5 right?

6 MR. YONAN: 100 percent, Your Honor. And I wouldn't
7 use the term additional video.

8 THE COURT: Well --

9 MR. YONAN: A video --

10 THE COURT: Video I had never seen or heard of until
11 yesterday.

12 MR. YONAN: When I heard about the video, my
13 assumption -- and I think the team should have had the video.
14 That's -- the first problem is the team didn't have the video.
15 I became aware of a video, I was not aware that the team did
16 not have the video. So that's a disconnect that we have to get
17 to the bottom of.

18 But like, Your Honor, the government is not acting in
19 bad faith. I know both defense counsel said they'd never seen
20 anything like this in however many years. Unfortunately,
21 Judge, sometimes mistakes happen. And when we learn of these
22 mistakes, we bring them to the Court's attention, and we are
23 doing our best to try to fix them.

24 And I understand your concern that, well, there's more
25 investigation to be done, but I do want to emphasize again like

1 this is a situation where agents were encountering individuals
2 who were armed, who were trying to rob them. This is not a
3 situation that they can walk away from. They take people into
4 custody, and they present it to the U.S. Attorney's Office, and
5 we do our best to present that information to you in a truthful
6 fashion.

7 There are some things that we would have liked to have
8 had when we presented the complaint to you that we did not.
9 And we have to get to the bottom of that. But the public
10 interest in a full investigation in this case, like the remedy
11 that the defense is seeking, which is essentially a dismissal
12 with prejudice, this does not -- there's been no showing of any
13 intentional misconduct here.

14 Mr. Adams even said he doesn't think the government,
15 or at least I believe he said U.S. Attorney's Office wasn't in
16 bad faith. That seems like far too seriousness a punishment
17 given the seriousness of the nature of the crime that was
18 involved here.

19 THE COURT: Okay. All right. I think as everyone has
20 recognized, there's very little law, right, on these points.
21 This isn't something that happens every day and that there's a
22 lot of developed law on. But of course the Court went looking
23 for what law there is because I wanted to have guidance as to,
24 you know, really what, what should I be considering here at
25 least as to this point. I'm only speaking now to the point of

1 is the dismissal with or without prejudices, okay, but that's
2 only what I'm speaking to now.

3 And I found some federal case law on this, right, not
4 much, but I want to go over some of that here. That the
5 judiciary has a role to play when the government seeks to
6 dismiss a prosecution, but it's a limited one. The Supreme
7 Court has declined to construe Rule 48(a) leave of court
8 requirements to confer any substantial role for courts in the
9 determination whether to dismiss charges. The principal object
10 of the leave of court requirement, the Supreme Court has said,
11 is to protect a defendant against prosecutorial harassment,
12 e.g., charging, dismissing and recharging when the government
13 moves to dismiss -- this was in a case where there was an
14 indictment -- same rule applies in a criminal complaint such as
15 here -- over of the defendant's objection.

16 This case is *U.S. v. BGG*, 53 F.4th 1353, 1361. It's
17 an Eleventh Circuit case from 2022.

18 The Eleventh Circuit in that case outlines five
19 requirements under the Rule 48(a) to guide district courts.
20 The first four requirements go to the government's presumption
21 of good faith and whether the dismissal itself should be
22 granted. The fifth requirement goes toward whether the
23 dismissal is with prejudice. As the Eleventh Circuit explained
24 in that case, if a district court grants leave to dismiss, the
25 Rule 48 dismissal without prejudice because it does not bar a

1 future prosecution on the same charges. It is true that
2 Rule 48(a) states the United States Attorney may by leave of
3 court file a dismissal of a -- as we said, an indictment, a
4 criminal complaint, an information, and the prosecution shall
5 thereupon terminate. But the authorities are replete that such
6 a dismissal is usually always without prejudice. It is
7 precisely because a dismissal under Rule 48 does not bar
8 subsequent prosecution that the rule requires the consent of
9 the Court.

10 That's again assigned to the Eleventh Circuit case,
11 which cites to the *U.S. v. Davis*, 487 F.2d 112 at 118. That's
12 a Fifth Circuit case from 1973.

13 I mean here, clearly, while the Court has been very
14 clear about its concerns, the Court does not want to discourage
15 the U.S. Attorney from moving to dismiss complaints. I think
16 it is important that the U.S. Attorney's Office, at least
17 according to Mr. Fiedler's representations here today in court,
18 he found out about this on Wednesday afternoon at 4:22. I was
19 informed by noon that the motion to dismiss this complaint
20 would be coming. And I think that that is obviously in light
21 of the exhibits that the Court has viewed and our discussions
22 here in court today that that was the appropriate thing to do.

23 So the Court is going to, obviously, be granting the
24 government's motion to dismiss the complaint in this case under
25 48(a) and will do so because it does not find there's been a --

1 there's not -- double jeopardy is not attached here. The bad
2 faith and constitutional violations, very extreme from anything
3 that the Court could find in any opinions whatsoever on this,
4 this while very troubling, and I think there might be further
5 things we could discuss, I don't think it rises to the level of
6 the Court, under the case law that it has obviously found and
7 heard nothing different from counsel and from the government,
8 under Rule 48, that this dismissal should be a dismissal, as I
9 said, without prejudice instead of one with prejudice. So
10 that's what the Court will be doing as to that point.

11 The next point is that Ms. Noller separately raised an
12 issue of should there be other some type of a sanction. The
13 Court is still concerned here that I don't have the full
14 picture of everything. As I said, I haven't been able to
15 understand what this agent knew at the time that I put under
16 oath that would form the basis of this complaint in this case.
17 The agent is not present here today.

18 I do think that it makes sense to hold this case open.
19 You know, the complaint has been dismissed, the criminal
20 complaint is dismissed, but to keep the case open for a
21 separate hearing to address those issues. And I think that
22 that's important.

23 And I think I want to give the parties time. The
24 Court doesn't want to rush through this, right? These are
25 serious things. I don't want to be saying an FBI agent acted

1 in bad faith or made material misrepresentations. I want to
2 understand the actual facts and understand all of that before I
3 would make any type of finding such as that.

4 And so I'd like to hold this open for a separate
5 hearing. The date I looked at was Tuesday, June the 30th. So
6 we'd have next week for people to get information together, at
7 1:30 p.m. Does that work for counsel?

8 MS. NOLLER: Your Honor, I am -- excuse me -- I'm not
9 available the 29th through the 1st. I'm in New York for
10 something else. I am available on the 2nd or 3rd.

11 THE COURT: I don't know what works for other defense
12 counsel.

13 MR. ADAMS: I can do the 2nd of July.

14 MR. LEVINSOHN: The 2nd would work.

15 THE COURT: Okay. Ms. Franco, let me know.

16 THE CLERK: Does 1:00 o'clock work for counsel?

17 MR. LEVINSOHN: Yes.

18 MS. NOLLER: 1:00 o'clock on the 2nd?

19 MR. ADAMS: Yeah.

20 THE COURT: Okay. So that works for the government,
21 July the 2nd we're going to come back, right, 1:00 p.m.?

22 Okay. So I think it would be helpful to the Court --
23 as I said, to have a better understanding at that hearing, I
24 think it might be helpful to either have the agent that swore
25 out the complaint present in court, or I least want to -- I

1 think he should be here, I think that's what should happen.

2 And us have a better understanding of that if the
3 Court is to try to determine if it should impose any other type
4 of sanction in the case, okay?

5 All right. Is there anything further?

6 MR. LEVINSOHN: Judge?

7 THE COURT: Yes.

8 MR. LEVINSOHN: One, I guess we'll call it a
9 housekeeping matter. Demond Edwards, the warrant was never
10 executed.

11 THE COURT: Yes. I'm glad you raised this.

12 MR. LEVINSOHN: And so we'd be asking that it be
13 vacated.

14 THE COURT: Yes. The warrant is vacated or quashed as
15 to Mr. Edwards. Yes, thank you for raising that. I had that
16 on my list as well. Thank you, sir.

17 Anything else from the government?

18 MR. FIEDLER: No, Your Honor.

19 THE COURT: Anything else from the other defense
20 counsel?

21 MR. ADAMS: No, Your Honor. Thank you.

22 THE COURT: All right. Thank you all. Thank you for
23 coming. I appreciate it. And I will see you all on the 2nd.
24 Thank you.

25 (Concluded at 12:24 p.m.)

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I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

/s/Vicki L. D'Antonio
Vicki L. D'Antonio, CSR, RPR, FCRR
Official Court Reporter

June 18, 2026