

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE KIMBERLY J. MUELLER, JUDGE

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 2:13-CR-00082

MATTHEW KEYS,

Volume 8

Pages 928 through 952

Defendant.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

VOLUME 8

WEDNESDAY, OCTOBER 7, 2015, 8:30 A.M.

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(Appearances continued next page...)

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1 SACRAMENTO, CALIFORNIA

2 WEDNESDAY, OCTOBER 7, 2015, 10:36 A.M.

3 ---o0o---

4 (Jury not present.)

5 THE CLERK: Calling criminal case 13-82, the United
6 States versus Matthew Keys. This is on for a jury trial, and
7 today is date eight.

8 THE COURT: All right.

9 MR. SEGAL: Good morning, Your Honor. Matthew Segal
10 and James Silver for the United States.

11 THE COURT: All right.

12 MR. LEIDERMAN: Jay Leiderman and Mark Jaffe for
13 defendant Matthew Keys, who is present.

14 THE COURT: All right. Good morning. Two issues.

15 One, the corrected instructions 15 and 25, they are
16 relatively minor corrections. But I do believe, given what
17 I've heard of the parties' responses, I'm prepared to provide
18 those to the jury.

19 So instruction No. 15, and referring back to the
20 discussion the Court had with counsel during the jury
21 instruction conferences, the language "content management
22 system" would appear on pages 10 through 11. And then on
23 page -- I'm sorry. On instruction No. 25, the pagination has
24 changed on what I have. I've corrected to make crimes
25 singular, and then the key change is at line 14.

1 So my understanding is there are no objections to those
2 changes.

3 What is the parties' position as to whether or not the
4 underlining should appear to signal to the jury the correction?
5 Mr. Segal?

6 MR. SEGAL: I think it should not appear. If this is
7 all that's going back, then -- well, let me ask. Does the jury
8 have the current 15 and 25?

9 THE COURT: Yes, they each have their own sets in their
10 binders.

11 I don't know that these are material. It occurred to
12 me, particularly looking at instruction No. 5, that there is an
13 internal inconsistency. And I just didn't want them getting
14 hung up on the language that was vestidual language retained in
15 that third paragraph.

16 MR. SEGAL: Well --

17 THE COURT: If you think it's not material and would
18 not make a difference, we don't need to provide the
19 corrections. I just wanted to highlight that issue with
20 counsel now if there were still time to address that with the
21 jury.

22 MR. SEGAL: I don't think that you should send back
23 underlining of particular instructions because that risks
24 emphasizing that instruction over others. And especially if
25 the Court sends it back and it's underlined, it could have the

1 effect of making it seem more important.

2 And then the question is do we want to send back a
3 correction. That's fine with us. I think this is an accurate
4 statement of the law. The indictment is as to damaging the
5 computer system used by the Tribune Company, but the computer
6 system presented at trial was the content management system, so
7 I don't care either way.

8 I'm curious what the defense position is on this.

9 THE COURT: Mr. Jaffe, you're handling this, or
10 Mr. Leiderman?

11 MR. JAFFE: We have no objections to the changes.

12 With respect to the content management system, we think
13 that is a more accurate description of what is at issue here.
14 I think it said computer management system based on a statement
15 I made when we argued the jury instructions, and it was an
16 error when I said that.

17 So the defense agrees with the corrections made. The
18 defense does not have a strong position on whether or not it
19 should be underlined. I am mindful of the Court's -- of the
20 government's concern about placing undue emphasis on these
21 changes for the purpose of the jury. But, on the other hand,
22 if we send them a corrected instruction, the jury may very well
23 want to know where that change is.

24 And so we leave that up to the --

25 THE COURT: I think that's the fundamental question.

1 Are these material changes? Mr. Segal?

2 MR. JAFFE: No.

3 MR. SEGAL: If that's fine, then do nothing.

4 THE COURT: I think that's the question, which is -- I
5 just want to -- again, I wanted to highlight it.

6 MR. SEGAL: As between sending back underlined versions
7 and doing nothing, I would prefer that the Court do nothing.

8 THE COURT: But the third option is sending back
9 corrected versions without any underlining --

10 MR. SEGAL: Right.

11 THE COURT: -- but still understanding it's corrected.
12 That's the third option.

13 Would you still do nothing?

14 MR. SEGAL: If the defendant wants option three, I
15 think you should do it. Otherwise I think you should do
16 nothing.

17 MR. LEIDERMAN: Let's take -- option three seems the
18 most prudent, Your Honor, from where we stand.

19 THE COURT: All right. So send in the corrected
20 versions, no underlining?

21 MR. LEIDERMAN: Corrected version with no underlining.

22 Our concern about the underlining is, A, it may cause
23 too many problems. And, you know, the concern without the
24 underlining is, of course, they're going to look all over for
25 it, but I'd rather it have the regular instruction.

1 THE COURT: All right.

2 MR. SEGAL: You can say --

3 THE COURT: I'll craft very -- I'll just indicate the
4 Court has identified minor corrections in two jury
5 instructions. Here are copies of the corrected instructions.
6 They should be read just as you would have read the original in
7 the context of all the other jury instructions.

8 MR. LEIDERMAN: That will be just fine.

9 THE COURT: I'll craft something.

10 On the jury note --

11 MR. SEGAL: Yes.

12 THE COURT: -- which appears to be coming from a juror,
13 what's your position on that, Mr. Segal?

14 MR. SEGAL: We have a computer here. We're ready to
15 go.

16 THE COURT: Which would be in the courtroom?

17 MR. SEGAL: Yes.

18 THE COURT: All right. Mr. Leiderman, Mr. Jaffe?

19 MR. LEIDERMAN: We don't have a position. If they're
20 ready to go, we're ready to go.

21 THE COURT: All right. So I understand the jury took a
22 break immediately after writing this note, so I would let them
23 know that the Court would be prepared to bring them back into
24 the courtroom and play the audios.

25 What's the total time that would take?

1 MR. SEGAL: One of them is 40 minutes. The Mercer call
2 is about 40, 45 minutes, and then the excerpts might go up --
3 might bring it up to an hour. That's just -- that's my guess
4 based on my recollection.

5 THE COURT: So my thought would be -- I have two pleas
6 waiting. My thought would be to see if I can get through those
7 and then play them.

8 What's the parties' position? I hate to keep the jury
9 waiting, but I do think this has to be done in the courtroom.

10 MR. SEGAL: I agree with both of those things.

11 THE COURT: I could see if there's a magistrate judge
12 or a colleague available to monitor playing in a different
13 courtroom. We are set up in this courtroom.

14 MR. SEGAL: Or take the Rule 11s.

15 THE COURT: Pardon me?

16 MR. SEGAL: Or have the colleague take the Rule 11s.

17 THE COURT: Well, that's a policy discussion that has
18 been discussed for many years.

19 MR. SEGAL: Okay.

20 THE COURT: That's the only way to get this going more
21 quickly I think, all things considered, given that I have
22 defendants with interpreters awaiting to take pleas.

23 So do you want me to try to find a colleague to monitor
24 the playing?

25 MR. SEGAL: I think --

1 THE COURT: Or wait until -- it would be 11:30 or so, I
2 think, the earliest.

3 (Off-the-record discussion with Courtroom Deputy.)

4 MR. SEGAL: I think if a district judge happens to --
5 it's a trial matter. If a district judge is available, that's
6 fine with us. On the other hand, if you want to tell the jury
7 that -- give the jury the choice to be -- that they should
8 continue deliberating, and we'll play it at 11:30, we can be
9 ready at 11:30.

10 THE COURT: I think that's probably the most practical.
11 Does that work for you?

12 MR. LEIDERMAN: Oh, no, that will work just fine for
13 us.

14 THE COURT: All right. Let me craft short notes.
15 We'll show them to you. If there are no objections, they'll go
16 to the jury. And then we will re-call the criminal calendar in
17 about five or ten minutes.

18 MR. SEGAL: Thank you, Your Honor.

19 (Off the record.)

20 THE CLERK: Come to order. Court is back in session.

21 THE COURT: All right. We're back on the record in the
22 Keys matter.

23 Did you want to call the matter, Ms. Schultz?

24 THE CLERK: Your Honor, I did it this morning.

25 THE COURT: All right. Just so it's clear, we're

1 continuing from this morning.

2 All right. Two things. I'm going to read a portion of
3 Ninth Circuit instruction 7.10. I'm going to read only a
4 portion of it, but it will read like this. Let me know if you
5 have any objection.

6 Because a request has been made for a play back, it is
7 being provided to you. But you are cautioned that all play
8 backs run the risk of distorting the trial because of
9 overemphasis on one portion of the evidence. In your exercise
10 of judgment, the recordings played cannot be considered in
11 isolation, but must be considered in the context of all the
12 evidence presented.

13 Any objection to the giving of that cautionary
14 instruction, Mr. Segal?

15 MR. SEGAL: No, Your Honor.

16 THE COURT: Mr. Leiderman?

17 MR. LEIDERMAN: Not by the defense.

18 THE COURT: All right. All right. We'll bring the
19 jury in.

20 You think under an hour, Mr. Segal, or an hour?

21 MR. LEIDERMAN: I think it was an hour. The Mercer
22 call was 47 minutes, and I think they played 15 to 20 minutes
23 worth of clips. But --

24 THE COURT: All right. So a little more than an hour.
25 All right.

1 MR. SEGAL: Does the Court want the Mercer call first?

2 THE COURT: That was the order in which it appeared in
3 the note, so that's fine. So the Mercer call first and then
4 Cauthen conversation excerpts.

5 I'm going to tell the jury, if they want, they can just
6 manage themselves. They should be in their seats, but if they
7 need to stand during the playing, they may do so. The Court
8 may stand.

9 And if counsel wants to stand --

10 MR. LEIDERMAN: Thank you.

11 THE COURT: -- or Mr. Keys wants to stand, that's fine
12 with me.

13 All right. Let's bring the jury in.

14 And so can we agree the Court Reporter doesn't need to
15 take down the contents of the recording?

16 MR. SEGAL: Yes.

17 MR. LEIDERMAN: Yes, stipulated.

18 THE COURT: All right.

19 MR. SEGAL: We'll just put in what exhibit they are as
20 we play them.

21 THE COURT: What does that mean?

22 MR. SEGAL: Each recording has an exhibit number.

23 THE COURT: So you'll read the number?

24 MR. SEGAL: Yes.

25 THE COURT: Any objection to that?

1 MR. LEIDERMAN: That's fine.

2 THE COURT: All right.

3 MR. SEGAL: And maybe the clerk could confirm, 222 is
4 in, isn't it?

5 THE COURT: If you need to confer with --

6 MR. SEGAL: I'll do that while the long one is playing.

7 (Jury present.)

8 THE COURT: Welcome back, Ladies and Gentlemen of the
9 jury. Those of you in the courtroom may be seated.

10 As you know from my note, given the request to hear the
11 recordings, the recording made by Mr. Mercer and then the
12 excerpts of the interview, the recording made by Agent Cauthen,
13 we're going to play those for you now.

14 Let me just make certain you understand, it is because
15 a request has been made the play backs of recordings are being
16 provided to you. But you are cautioned that all play backs run
17 the risk of distorting the trial because of overemphasis of one
18 portion of the evidence. In your exercise of judgment, the
19 recordings cannot be considered in isolation, but must be
20 considered in the context of all of the evidence presented.

21 So with that, I'm advised that the total time required
22 is just over one hour. We'll first play the Mercer recording.
23 The government will simply identify the exhibit number to which
24 it corresponds. Then we'll play the excerpts of the Cauthen
25 recording. Again, the government will identify the exhibit

1 numbers to which those excerpts correspond.

2 And if you need during that time to stand, feel free to
3 do so in place. In fact, the Court may stand because I'm
4 feeling the need to do that given the amount of sitting I've
5 done this week.

6 All right. The government's ready to play those?

7 MR. SEGAL: Yes, Your Honor. We'll play Government
8 Exhibit 201 first, please.

9 THE COURT: All right.

10 (Exhibit 201 played, not reported.)

11 THE COURT: That concludes that recording?

12 MR. SEGAL: It does, Your Honor.

13 THE COURT: So now the excerpts from the Cauthen
14 interview. Let's go through those in order.

15 MR. SEGAL: 206.

16 May I just call these out from my seat, Your Honor?

17 THE COURT: Yes, you may.

18 (Exhibit 206 played, not reported.)

19 MR. SEGAL: 207.

20 (Exhibit 207 played, not reported.)

21 MR. SEGAL: 208.

22 (Exhibit 208 played, not reported.)

23 MR. SEGAL: 209.

24 (Exhibit 209 played, not reported.)

25 MR. SEGAL: 210, please.

1 (Exhibit 210 played, not reported.)

2 MR. SEGAL: 211, please.

3 (Exhibit 211 played, not reported.)

4 MR. SEGAL: 212, please.

5 (Exhibit 212 played, not reported.)

6 MR. SEGAL: 214 -- or 213, please.

7 (Exhibit 213 played, not reported.)

8 MR. SEGAL: 214, please.

9 (Exhibit 214 played, not reported.)

10 MR. SEGAL: 215, please.

11 (Exhibit 215 played, not reported.)

12 MR. SEGAL: 216.

13 (Exhibit 216 played, not reported.)

14 THE COURT: Is that the last recording?

15 MR. SEGAL: No. 217, Your Honor.

16 THE COURT: All right.

17 (Exhibit 217 played, not reported.)

18 MR. SEGAL: 218, please.

19 (Exhibit 218 played, not reported.)

20 MR. SEGAL: 219, please.

21 (Exhibit 219 played, not reported.)

22 MR. SEGAL: 220, please.

23 (Exhibit 220 played, not reported.)

24 MR. SEGAL: 221, please.

25 (Exhibit 221 played, not reported.)

1 MR. SEGAL: 223, please.

2 (Exhibit 223 played, not reported.)

3 MR. SEGAL: 222. Sorry, Your Honor, I skipped one.

4 We've played 221, 223, and now we're going to play 222.

5 THE COURT: All right.

6 (Exhibit 222 played, not reported.)

7 MR. SEGAL: 224, please.

8 (Exhibit 224 played, not reported.)

9 MR. SEGAL: 225, please.

10 (Exhibit 225 played, not reported.)

11 MR. SEGAL: 226, please.

12 (Exhibit 226 played, not reported.)

13 MR. SEGAL: 227, please.

14 (Exhibit 227 played, not reported.)

15 MR. SEGAL: 228, please.

16 (Exhibit 228 played, not reported.)

17 MR. SEGAL: 229, please.

18 (Exhibit 229 played, not reported.)

19 MR. SEGAL: 230, please.

20 (Exhibit 230 played, not reported.)

21 MR. SEGAL: 231.

22 (Exhibit 231 played, not reported.)

23 MR. SEGAL: 232, please.

24 (Exhibit 232 played, not reported.)

25 THE COURT: That concludes the recordings?

1 MR. SEGAL: Yes, Your Honor.

2 THE COURT: All right. Agreed, Mr. Leiderman?

3 MR. LEIDERMAN: It seems to.

4 THE COURT: All right. Ladies and Gentlemen of the
5 jury, those are the recordings you had requested be played.
6 Again, please bear in mind that these recordings cannot be
7 considered in isolation. They must be considered in the
8 context of all of the evidence presented.

9 Also, some of you have taken notes here this afternoon.
10 I previously gave you an instruction about notes. Please
11 review that again. Notes are only to assist your memory.

12 And my instructions are to be read as a whole, as the
13 evidence is to be considered in totality.

14 You are excused now to continue your deliberations.
15 Thank you.

16 (Jury not present.)

17 THE COURT: All right. We'll keep you posted.

18 MR. SEGAL: Thank you, Your Honor.

19 THE COURT: I'm assuming the latest we'll go is 5:00.
20 My practice is to call them in at the end of each day and give
21 them the cautionary admonition. We'll let you know. If we
22 don't hear before 5:00, I would expect to call them in about
23 5:00.

24 All right?

25 MR. LEIDERMAN: We'll see what happens.

1 THE COURT: Thank you.

2 (Off the record.)

3 (Jury not present.)

4 THE CLERK: Calling criminal matter 13-82, the United
5 States versus Matthew Keys.

6 THE COURT: All right. We're back on the record with
7 Mr. Segal for the government, Mr. Leiderman, Mr. Jaffe, and
8 Mr. Keys is present.

9 The Court has received notification that the jury has
10 reached a verdict. Here's my practice. We'll call the jury
11 in. I'll confirm that with the foreperson. I'll ask the
12 foreperson to hand the verdict form to Ms. Streeter. I'll
13 review it for consistency. And then Ms. Streeter will read it
14 into the record.

15 And then I'll ask the parties if they wish the jury
16 polled. Either side could have the jury polled. If so, we'll
17 do that. Ms. Streeter will do that.

18 And then we will excuse the jurors telling them that
19 they are now free to talk, if they would like. And then I take
20 a short break, I go into the jury room, and I'll just -- I
21 thank them for their service and give them a certificate of
22 appreciation. I don't discuss the substance of the trial, but
23 that's the least I can do. Then I'll come back and consider
24 any motions.

25 So any questions?

1 MR. SEGAL: No. You want us to hang around while
2 you're in with the jury?

3 THE COURT: That would be --

4 MR. SEGAL: Okay.

5 THE COURT: It takes me all of five minutes.

6 All right. So let's bring the jury in.

7 THE CLERK: Yes, Your Honor.

8 (Jury present.)

9 THE COURT: You may be seated.

10 Welcome back, Ladies and Gentlemen. The Clerk
11 understands you have reached a verdict.

12 Ms. Styers, are you the foreperson?

13 JUROR NO. 6: Yes.

14 THE COURT: You have the verdict with you?

15 JUROR NO. 6: Yes.

16 THE COURT: We'd ask Ms. Streeter to retrieve that from
17 you.

18 THE CLERK: Thank you.

19 THE COURT: All right. The verdict form is in order.
20 I'm going to ask Ms. Streeter to read the verdict into the
21 record. So listen carefully as it is read.

22 Ms. Streeter.

23 THE CLERK: Ladies and Gentlemen of the jury, listen to
24 your verdict as it will stand recorded.

25 In the United States District Court, Eastern District

1 of California, United States of America, plaintiff, versus
2 Matthew Keys, defendant, case No. 2:13-CR-82-KJM, verdict form.

3 We, the jury, find the defendant Matthew Keys as
4 follows:

5 As to Count One of the superseding indictment, guilty
6 of conspiracy to transmit a program, code, command or
7 information to a computer intending to cause damage, between on
8 or about December 8th, 2010, and on or about December 15th,
9 2010.

10 If you found the defendant guilty of Count One, do you
11 find beyond a reasonable doubt either that: One, the defendant
12 could reasonably foresee that the conspiracy could cause loss
13 adding up to \$5,000; or, two, causing loss adding up to \$5,000
14 fell within the scope of the defendant's particular agreement
15 with his co-conspirator? Answer: Yes.

16 As to Count Two of the superseding indictment, guilty
17 of transmitting a program, code, command or information to a
18 computer intending to cause damage, between on or about October
19 28th, 2010, and January 5th, 2011.

20 If you found the defendant guilty of Count Two, do you
21 find beyond a reasonable doubt that the offense caused loss
22 adding up to at least \$5,000? Answer: Yes.

23 As to Count Three of the superseding indictment,
24 guilty, attempting to transmit a program, code, command or
25 information to a computer intending to cause damage on or about

1 December 15th, 2010.

2 If you found the defendant guilty of Count Three, do
3 you find beyond a reasonable doubt that the offense would, if
4 completed, have caused loss adding up to at least \$5,000?

5 Answer: Yes.

6 Dated October 7th, 2015, signed by foreperson Heather
7 Styers.

8 THE COURT: That is the verdict as returned to the
9 Court. Let me ask if either side would like the jury polled.
10 Mr. Segal?

11 MR. SEGAL: No, Your Honor. Thank you.

12 THE COURT: Mr. Leiderman?

13 MR. LEIDERMAN: Yes, Your Honor.

14 THE COURT: All right. Ladies and Gentlemen, the
15 parties do have the right to have the jury polled, which means
16 each one of you asked individually if that is your verdict. So
17 Ms. Streeter now will poll you as requested.

18 THE CLERK: Ladies and Gentlemen of the jury, as I call
19 your name, please answer yes or no to the following question:
20 Is the verdict as read your verdict?

21 Juror No. 1, Lisa Cale?

22 JUROR NO. 1: Yes.

23 THE CLERK: Juror No. 2, Gwendolyn James?

24 JUROR NO. 2: Yes.

25 THE CLERK: Juror No. 3, Theresa McFarland?

1 JUROR NO. 3: Yes.

2 THE CLERK: Juror No. 4, Steven Blasy?

3 JUROR NO. 4: Yes.

4 THE CLERK: Juror No. 5, Adriana Valdez?

5 JUROR NO. 5: Yes.

6 THE CLERK: Juror No. 6, Heather Styers?

7 JUROR NO. 6: Yes.

8 THE CLERK: Juror No. 7, Cynthia Stave?

9 JUROR NO. 7: Yes.

10 THE CLERK: Juror No. 8, Sherry Babchuk?

11 JUROR NO. 8: Yes.

12 THE CLERK: Juror No. 9, Anna Biggers?

13 JUROR NO. 9: Yes.

14 THE CLERK: Juror No. 10, Shannah Whithaus?

15 JUROR NO. 10: Yes.

16 THE CLERK: Juror No. 11, Jeanine Hanrihan?

17 JUROR NO. 11: Yes.

18 THE CLERK: Juror No. 12, Detria Sanders?

19 JUROR NO. 12: Yes.

20 THE CLERK: All affirmative say the verdict is
21 unanimous, Your Honor.

22 THE COURT: All right. May this jury now be excused,
23 Mr. Segal?

24 MR. SEGAL: Yes, Your Honor. Thank you.

25 THE COURT: Mr. Leiderman?

1 MR. LEIDERMAN: Yes, Your Honor. Thank you.

2 THE COURT: Ladies and Gentlemen, you are excused from
3 your service on this jury. The Court and counsel and the
4 parties thank you very much for your diligent service.

5 As you leave, two things. One, I would ask you to wait
6 for me in the jury room just very briefly along with your
7 alternates. They will be instructed to join you in the jury
8 room. I just have a simple certificate of appreciation which I
9 give out in every case just as our way of thanking you for your
10 service. You have exercised a very important right, fulfilled
11 a very important responsibility of American citizenship.

12 Also, as you leave, you are advised that the
13 admonitions I have been giving you throughout trial are now
14 lifted. That is, you may talk about the case with other
15 persons. You are not required to, but you are free to discuss
16 the matter including with counsel and the parties, if you wish.

17 All right. You're excused. You may go to the jury
18 room. The alternates I see in the audience. You may join them
19 in the jury room. I'll be right there.

20 (Jury not present.)

21 THE COURT: All right. You may be seated.

22 MR. SEGAL: If it might save time, Your Honor, I'm not
23 moving for remand.

24 THE COURT: You had said that earlier.

25 Are there any other motions at this time?

1 MR. SEGAL: I'd like to ask for some not completely
2 turning his Internet off, but for some Internet use
3 restrictions. I think there's disagreement about that, so you
4 will need to hear that.

5 THE COURT: Today?

6 MR. SEGAL: It's -- I would prefer that. But if you
7 want to set it out for a week, I suppose I can live with that
8 also.

9 THE COURT: Has Mr. Keys been on pre-trial release with
10 conditions?

11 MR. LEIDERMAN: No. He hasn't had any conditions
12 for -- you know, I believe we arraigned this in March 2013. He
13 hasn't had any conditions at all. And obviously the crime
14 occurred in December of 2010. There's been no issue whatsoever
15 for, you know, two months short of five years.

16 THE COURT: Mr. Keys, if you were on pre-trial release,
17 pre-trial release would continue pending sentencing.

18 Any reason to not have him meet with pre-trial
19 services?

20 MR. SEGAL: I think he should meet with pre-trial
21 services now that he has been convicted.

22 Our view of this all along is he's not a flight risk
23 because he's just not looking at enough time to make himself a
24 flight risk. But now that he's been convicted, you have to
25 consider danger, and the restrictions that I have in mind are

1 ones that basically require him to identify himself on the
2 Internet. He shouldn't be using proxy servers. We'd like the
3 devices that he uses disclosed to the pre-trial services
4 officer. And this is the kind of thing that I think a
5 pre-trial services interview isn't really necessary for.

6 So OR in one sense. We don't need a bond. Again,
7 like, the sentence just isn't going to be long enough to
8 generate a flight risk. But now that -- under the statute,
9 danger is a consideration. I think these are the conditions --
10 you want to hear the conditions now, Your Honor?

11 THE COURT: Well, do you agree that from the time --
12 since March of 2011, is there any evidence that there's been
13 any additional activity --

14 MR. SEGAL: The last --

15 THE COURT: -- consistent with the activity supporting
16 the convictions now?

17 MR. SEGAL: The last time that we checked in with his
18 computer is when we took it in 2012. Right? The concern is
19 that he can disguise himself on the Internet pretty easily.
20 Now anybody knows how to use, you know --

21 THE COURT: No, I understand all that, Mr. Segal.

22 MR. SEGAL: That's it.

23 THE COURT: But you had the chance to be monitoring him
24 while he's on --

25 MR. SEGAL: No, I haven't. I mean, I couldn't do that

1 without interfering in his attorney-client relationship.

2 And actually, now that you ask, I will say that we did
3 send a document to the -- oh.

4 THE COURT: I'll tell you what, you can brief this
5 question.

6 MR. SEGAL: Okay.

7 THE COURT: Based on what I currently know, given that
8 he's been on OR release this entire time, he has made every
9 appearance, you can file a brief suggesting conditions of
10 release you're saying without pre-trial services supervision
11 pending sentencing.

12 MR. SEGAL: Well, the supervision would be to inventory
13 the Mac address, IMEI number --

14 THE COURT: But are you asking that pre-trial services
15 do that or --

16 MR. SEGAL: They can do it or give a list to us, it
17 doesn't matter to me. I just want him to know that he can't be
18 anonymous on the Internet anymore.

19 THE COURT: All right. At this point, the jury is
20 waiting longer than I had hoped. So you can file that request.
21 If there's any stipulation to be reached, you can file that
22 stipulation. I'll consider it.

23 We'll set a sentencing date. What would that date be,
24 Ms. Streeter?

25 THE CLERK: January 6th, 2016.

1 MR. LEIDERMAN: Could we have January 20th, please?

2 THE COURT: If that's available.

3 THE CLERK: It is available, yes, ma'am.

4 THE COURT: Does that work for you, Mr. Segal?

5 MR. SEGAL: It does, Your Honor. Thank you.

6 THE COURT: All right. So January 20th will be
7 sentencing.

8 Mr. Keys, you may sit for an interview with probation.
9 Probation will prepare a presentence report for the Court. You
10 may sit with your interview present if you would -- with your
11 attorney present.

12 There are objections -- are you familiar with our
13 presentence report process?

14 MR. LEIDERMAN: It sounds rather similar to the one
15 down south, but no. I had heard you describe it earlier today
16 to a different defendant, so you needn't describe it again to
17 me.

18 THE COURT: All right. So if you can make certain
19 Mr. Keys understands.

20 And it is essential that you be here on January 20th,
21 Mr. Keys. You're being released on your own recognizance from
22 this hearing. The Court may impose conditions based on
23 whatever I decide after the briefing. I'll rely on your
24 attorney to let you know those conditions. If I do order them,
25 you'll be subject to those conditions.

1 If you do not appear on January 20th, you could be
2 facing additional charges with additional penalties over and
3 above what you're already facing.

4 Is that understood?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. Anything further today,
7 Mr. Leiderman?

8 MR. LEIDERMAN: No, Your Honor. Thank you.

9 THE COURT: All right. Thank you. We're in recess.

10 MR. SEGAL: Thank you, Your Honor.

11 (Proceedings were concluded at 3:19 p.m.)

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

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4
5 /s/ Kathy L. Swinhart
KATHY L. SWINHART, CSR #10150
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