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Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

S1 12 Cr. 185 (LAP)

5 JEREMY HAMMOND,

6 Defendant.

7 -----x

8 April 10, 2013
9 4:08 p.m.

10 Before:

11 HON. LORETTA A. PRESKA,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the
16 Southern District of New York

17 BY: ROSEMARY NIDIRY

18 THOMAS BROWN

Assistant United States Attorneys

19 Law Office of Elizabeth Fink
20 Attorneys for Defendant

21 BY: SARAH KUNTSLER

MARGARET RATNER KUNSTLER

22 GRAINNE O'NEILL

23 - also present -

24 U.S. Marshal Sike Bennett

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1 THE COURT: Good afternoon, ladies and gentlemen.
2 Won't you be seated.

3 United States against Jeremy Hammond. Is the
4 government ready?

5 MS. NIDIRY: Yes. Good afternoon. Rosemary Nidiry
6 and Thomas Brown for the government.

7 THE COURT: Good afternoon.

8 And is the defense ready?

9 MS. S. KUNTSLER: Yes, your Honor. Sarah Kunstler,
10 from the Law Office of Elizabeth Fink, for Jeremy Hammond.
11 With me at counsel table are Grainne O'Neill and Margaret
12 Ratner Kunstler.

13 THE COURT: Good afternoon.

14 How would you like to proceed, counsel?

15 MS. NIDIRY: Your Honor, we would just like to update
16 the Court on where we are.

17 We have been in discussions with defense counsel about
18 a number of matters related to discovery and other matters
19 related to this case. And we've discussed in terms of
20 scheduling what we would like to do is to ask, if the Court is
21 amenable, to adjourn for a few more weeks, to I believe the
22 date that your courtroom deputy suggested was April 30th at 2.
23 And at that point we would be able to come back and give the
24 Court a status update and particularly regarding scheduling for
25 this matter.

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1 And I think I've discussed it with defense counsel and
2 they are amenable to that.

3 THE COURT: Ms. Kunstler.

4 MS. S. KUNTSLER: Yes. We have no objection to that.
5 April 30th at 2 p.m. is fine for us.

6 THE COURT: All right. So we will get together on
7 April 30th at 2 p.m. to discuss scheduling, setting a trial
8 date, etc., etc.

9 What else, friends? Anything else?

10 MS. NIDIRY: We would ask that time be excluded
11 pursuant to the Speedy Trial Act until April 30th, as that will
12 permit us to continue to discuss matters and the defense to
13 review discovery and so it would be in the interest of justice.

14 THE COURT: Any objection?

15 MS. S. KUNTSLER: No objection, your Honor.

16 THE COURT: In order to permit counsel to continue
17 their discussions about discovery and the like, time between
18 today and April 30th is excluded from calculation under the
19 Speedy Trial Act in the interest of justice.

20 Anything else?

21 MS. S. KUNTSLER: Your Honor, we just wanted to
22 provide the Court with a little update on discovery.

23 THE COURT: Yes, ma'am.

24 MS. S. KUNTSLER: As the Court knows, since
25 mid-November -- since our appearance in mid-November we have

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1 been working with the government to resolve discovery issues.

2 The government provided a laptop to MDC and a hard
3 drive for Mr. Hammond to use in January. Mr. Hammond first had
4 access to that laptop on February 13th, and since that time he
5 has had a total of about eleven hours of access. It was
6 complicated originally by his housing in the SHU, and then
7 later it is just a matter of coordinating it with --
8 communication and coordination in the facility, and we're
9 working with Adam Johnson to make that smoother.

10 We've also been able to bring the laptop to legal
11 visits, but we have had -- our procedure now is to make the
12 request 24 hours in advance to Adam Johnson. And we have been
13 somewhat successful there also. I would say out of about 14
14 legal visits, we have had the commuter a total of four times.
15 So I think we are batting about 20 percent with the legal
16 visits. But, again --

17 THE COURT: Is the issue that it is not being brought
18 up, or what is the problem?

19 MS. S. KUNTSLER: I think part of the issue can be the
20 communication from lieutenants off duty and on duty. Sometimes
21 the computer will be -- what happens is Mr. Johnson puts the
22 computer in the guard desk in the front. Staff may change.
23 They may not know it is there even if it is there. I think
24 that is largely what it is. If Mr. Johnson is there when we
25 arrive, it is easier to resolve than if he is not in the

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1 office.

2 You know, suffice it to say review with Mr. Hammond of
3 discovery has been proceeding rather slowly. You know, part of
4 the reason for this, other than we're still working out the
5 kinks of getting to review it with him, is the technical nature
6 of the material. We have been having Ms. O'Neill do the legal
7 visits for the discovery because she has a computer science
8 degree and that makes it all the much easier, but when
9 technical issues arise during her review with Mr. Hammond, she
10 often has to go back and do more research to figure out -- to
11 get answers on a number of matters and then come back and
12 review the same material over with him. If they were -- if
13 they did permit access, she could click a link and do the
14 research there but the situation is what it is.

15 Another reason is the magnitude of the discovery
16 itself. I was trying figure a way -- I mean, the Court knows
17 that discovery is voluminous in this case. But I was trying to
18 think of an example of a piece of it. One example is there is
19 about 59,000 pages of chat logs between July of 2011 and March
20 of 2012, which amounts to about 3.5 million lines of text,
21 involving about 45,000 participants. And often these are chats
22 that are happening simultaneously on different documents at the
23 same time. So it just takes a long time to coordinate what's
24 happening over the multiple documents. So we are in touch with
25 the jail about trying to make this easier, but even when it

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1 gets easier, it is still a lot of material.

2 We've also been in touch with the government about
3 discovery which we think may be missing from earlier
4 productions. And we've given them a list of materials we think
5 might be missing, and they're going to get back to us and
6 we'll, hopefully, figure that out as well.

7 THE COURT: OK. That sounds like about as much as we
8 can do right now. OK.

9 MS. S. KUNTSLER: The only other matter is we wanted
10 to make a request, through the Court, to permit a courtroom
11 visit with Mr. Hammond and his mother, who is present here
12 today.

13 (A spectator indicated)

14 THE COURT: Yes, ma'am. Good afternoon.

15 How long do you anticipate that would take, please,
16 Ms. Kunstler?

17 MS. S. KUNTSLER: And Mr. Hammond's brother, as well,
18 if possible.

19 I mean, about ten minutes, if the Court -- if the
20 marshals can do it and the Court will allow it.

21 THE COURT: First, does the government have any
22 comment?

23 MS. NIDIRY: Your Honor, we had discussed with
24 Ms. Kunstler prior to this conference about the meeting with
25 Mr. Hammond's mother, and that was what we had understood the

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1 request was going to be, and that we do not have an objection
2 to.

3 I mean, I guess if the brother -- you know, they want
4 to meet with the brother as well, that is fine as well. But
5 just the mother and the brother, that is fine, if it is OK with
6 the marshals.

7 THE COURT: Mr. Marshal, are we -- is that something
8 we can do?

9 MARSHAL BENNETT: Your Honor, as per Marshal Service
10 policy, we don't allow for visitations, but if it is the
11 Court's request, we of course will oblige by the Court's
12 orders.

13 THE COURT: Anything else, Ms. Kunstler?

14 MS. S. KUNTSLER: No, your Honor.

15 THE COURT: All right. On this occasion, given where
16 we are in this case, I will permit it.

17 When I leave the bench I will ask everyone other than
18 Mr. Hammond's counsel, Mr. Hammond's mother and brother and the
19 marshals to leave the room. Having done this once or twice in
20 the past, I understand that the rule is -- and a deputy will
21 correct me if I am wrong -- usually the folks at the defense
22 table turn their chairs around and the visitors sit in the row
23 that Mr. Hammond's mother is sitting in. Touching and passing
24 of papers is not allowed but, obviously, chatting and the like
25 is.

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Deputy, did I forget anything?

MARSHAL BENNETT: No, your Honor. That is correct.

THE COURT: All right. Granted.

MS. S. KUNTSLER: Thank you, your Honor.

THE COURT: Is there anything else?

MS. S. KUNTSLER: No, your Honor.

THE COURT: Anything else from the government?

MS. NIDIRY: No, your Honor.

THE COURT: All right. Thank you, ladies and gentlemen.

Everyone else is excused from the courtroom except the people I noted.

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