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PROCEEDINGS

(Court proceedings commenced at 11:55 a.m.)

THE COURTROOM CLERK: Criminal Case No. 2023-mj-32.
United States of America versus James Gordon Meek.

Counsel, please note your appearances for the
record.

MS. BEDELL: Good afternoon, Your Honor. Zoe Bedell
and Whitney Kramer for the United States.

MR. GOROKHOV: Good afternoon, Your Honor. Eugene
Gorokhov here for Mr. Meek, who is present at counsel table.

THE COURT: Good morning, sir.

This matter comes on today on an appeal of the
magistrate judge's release order. Counsel, I will let you
know that I've had the opportunity to read all of your
accompanying briefs and any letters that have been submitted.
So I'm well aware of the positions that the parties have taken
in this matter. Having appeared before me before, you all
know that I like to try as best I can to get to the real core
issue in this case. And the real core issue in this case is
-- and obviously, applying the applicable standard for whether
or not Mr. Meek should be given the privilege of being able to
remain out on bond, the Court is going to need to make an
inquiry into a couple of things. I'll tell you the things
that I'm concerned about both from the government's

1 perspective and from the defense perspective. From the
2 government's perspective, the concern that I voice is that
3 apparently Mr. Meek has been at liberty, until recently,
4 hasn't done anything, which would suggest that we know of that
5 he's gotten involved in any behavior which would cause the
6 court concern that he had the ability during those times to
7 actually flee if he had chosen to do so. Obviously, we're not
8 encouraging that, but that opportunity was there. And that he
9 has otherwise appears before the Court with a clean criminal
10 record and no suggestion that he is a person who would not
11 meet his obligation.

12 From the defense standpoint, the concern is this.
13 Number one is that, the allegations, and obviously that's what
14 they are right now. Allegations are very serious. There's a
15 presumption of no bond in a case such as this. And based upon
16 the government's position in the matter, this isn't your -- I
17 can use this term -- "typical case," involving child
18 pornography, but apparently, according to the government, it
19 has taken on another level in that there's suggestion that he
20 was having contact with minors and was going through what we
21 say in the market, the grooming process, as part of his
22 criminal behavior.

23 So those are the two things that jumped out at the
24 Court for consideration from both perspectives. I'll be happy
25 to hear any evidence, then we can go forward. Why don't we go

1 ahead.

2 Does the government have any evidence that it wants
3 to offer?

4 MS. BEDELL: Your Honor, we would be offering the
5 complaint affidavit as we did last time so we can proceed with
6 that. We do have the agent here, but we would not be offering
7 anything additional.

8 THE COURT: I will tell you I would like to hear
9 from the agent because it was somewhat unclear. And I'm going
10 to try to be as delicate as I can, that some of the
11 conversations that were supposedly taking place, allegedly,
12 between Mr. Meek and this presumed minor had some, shall we
13 say, rather indelicate language in it, and I was unable to
14 discern from looking at the complaint as to whether or not
15 that indelicate language was from Mr. Meek or someone that he
16 was speaking with. I was unable to discern that. So if
17 there's any evidence that would help me to understand whether
18 it was Mr. Meek saying these things or whether it was
19 allegedly -- or some other person, that would be helpful.

20 MS. BEDELL: And, Your Honor, is there something
21 specific you're looking at there, one of the specific
22 instances of engagement with minors. I know we have some of
23 the conversations laid out. Was that where the source of
24 confusion was?

25 THE COURT: Yes.

1 MS. BEDELL: Okay. We can clarify that, Your Honor.

2 THE COURT: All right.

3 MS. BEDELL: In that case we'll call Tonya Griffith.

4 THE COURT: Come on up, ma'am. Ladies and gentlemen

5 in the courtroom, during the course of this proceeding you may

6 hear some indelicate language. It is necessary for this

7 language to be used in the processing of this case. If this

8 language is offensive to you or if you feel uncomfortable

9 hearing it, you're free to leave the courtroom at this time.

10 (TONYA GRIFFITH, Government's witness, sworn.)

11 DIRECT EXAMINATION

12 BY MS. BEDELL:

13 Q. Good afternoon. Could you please state your name and
14 spell it, please.

15 A. It's Tonya Griffith. It's T-O-N-Y-A, last name is
16 G-R-I-F-F-I-T-H.

17 Q. How are you employed?

18 A. I'm an agent with the FBI.

19 Q. How long have you been employed in that position?

20 A. Over 20 years.

21 Q. Could you describe some of your duties?

22 A. I'm currently assigned to the child exploitation and
23 human trafficking task force. I primarily work child
24 exploitation online. So trading, distributing, online
25 production of child pornography, sextortion, those kinds of

1 violations.

2 Q. Are you the lead agent assigned to the matter in court
3 today?

4 A. Yes.

5 Q. And when did you become the lead agent on this matter?

6 A. A few months ago.

7 Q. Did you prepare an affidavit in support of a criminal
8 complaint in this case?

9 A. I did.

10 Q. And with the assistance of the court security officer, I
11 will pass up what has been marked as Government's Exhibit 1.

12 Do you recognize this exhibit?

13 A. I do.

14 Q. What is it?

15 A. It is the affidavit that I prepared for the complaint.

16 Q. And what does it contain?

17 A. It contains some of the facts known to me regarding this
18 investigation.

19 Q. And is your signature on this document?

20 A. Yes, it is.

21 Q. Is the information contained in Government's Exhibit 1 a
22 true and accurate reflection of the facts as known at the time
23 the affidavit was executed?

24 A. Yes.

25 Q. Do you have any corrections or additions you need to

1 make?

2 A. No.

3 Q. For purposes of today's hearing, do you incorporate and
4 adopt the facts as set forth in the affidavit as part of your
5 testimony?

6 A. I do.

7 MS. BEDELL: At this time, Your Honor, I would like
8 to move to admit this into evidence.

9 THE COURT: Without objection.

10 MR. GOROKHOV: No objection.

11 THE COURT: Okay.

12 (Government's Exhibit No. 1 was admitted into evidence.)

13 BY MS. BEDELL:

14 Q. Can you take a look at page 3 of the affidavit and the
15 bottom of that page.

16 A. Yes.

17 Q. And displayed here is a conversation that's between
18 username 2 and Ponny 4 [sic], is that correct?

19 A. Yes.

20 Q. Which of these is understood to be Mr. Meek's username?

21 A. Ponny 4.

22 Q. And for username 2, do you know that individual's true
23 identity?

24 A. No.

25 Q. Do you know -- do you believe they are a minor?

1 A. No.

2 MS. BEDELL: Court's indulgence, Your Honor.

3 THE COURT: Yes, ma'am.

4 BY MS. BEDELL:

5 Q. Just a general question about the affidavit.

6 The number of individuals are referred to by
7 username and then a number, are those individuals understood
8 to be minors at this time?

9 A. The ones that say "username" are believed to be adults.

10 (A pause in the proceedings.)

11 BY MS. BEDELL:

12 Q. There's a reference to -- excuse me, username 1.

13 Do you have any reason to believe that individual is
14 a minor?

15 A. No.

16 Q. And at the bottom of page 6 and onto page 7, there's a
17 discussion of username 1 -- a conversation with username 1
18 regarding a fantasy.

19 Do you have any reason to believe that happened
20 while username 1 was a minor?

21 A. No.

22 MS. BEDELL: Your Honor, does that address some of
23 the confusion or --

24 THE COURT: Somewhat, yes.

25 MS. BEDELL: Okay. Are there any additional

1 questions you would like to pose to the agent at this time
2 because otherwise that would conclude my questions.

3 THE COURT: Just a few. Obviously, you can
4 follow-up.

5 Ma'am, obviously, during the exchange between the
6 person alleged to be Mr. Meek and the minor, was there anyone
7 else involved in the conversation?

8 THE WITNESS: With the minor?

9 THE COURT: Yes.

10 THE WITNESS: No.

11 THE COURT: So it was a one-on-one conversation?

12 THE WITNESS: Yes.

13 THE COURT: Was that the context of most of the
14 conversations that you were able to discern?

15 THE WITNESS: With the individuals we believe to be
16 minors, yes, or we have identified as minors, yes.

17 THE COURT: Have you actually had personal or direct
18 contact with the individual you believe to be a minor?

19 THE WITNESS: One of them, yes.

20 THE COURT: Okay. And based upon your observation,
21 was this person indeed a minor?

22 THE WITNESS: Yes.

23 THE COURT: Okay. All right. Any questions as a
24 result of the Court's questions?

25 MS. BEDELL: No follow-up questions from me, Your

1 Honor.

2 THE COURT: Mr. Gorokhov.

3 CROSS-EXAMINATION

4 BY MR. GOROKHOV:

5 Q. First of all, can you tell the Court -- you said you've
6 been involved in this for the last few months.

7 Can you tell the Court when you got involved in this
8 investigation?

9 A. I don't remember the exact date, but it was a few months
10 ago. Approximately three months ago, two or three months ago.

11 Q. Okay. Is it fair to say this investigation has been
12 going on for over a year?

13 A. That's correct.

14 Q. Now, with respect to your affidavit, do you have that in
15 front of you?

16 A. Yes.

17 Q. The -- sorry, Your Honor.

18 Paragraph -- directing your attention to
19 paragraph 6, do you see there's a reference to an iPhone 8?

20 A. Yes.

21 Q. That was seized from, allegedly, Mr. Meek's apartment?

22 A. Yes.

23 Q. You did not participate in that search, did you?

24 A. I did not.

25 Q. Did you participate in the imaging of the phone?

1 A. I did not.

2 Q. Did you participate in creation of any reports from the
3 imaging of the phone?

4 A. No, not the original reports, no.

5 Q. Did you review the material from the reports?

6 A. Yes.

7 Q. Okay. So basically what you're saying is at some point,
8 when you became involved a few months ago, digital data was
9 handed to you and that's what you reviewed?

10 A. Yes.

11 Q. And directing your attention to paragraph 24, which is on
12 page 8.

13 A. Yes.

14 Q. There's a reference to an iCloud account there?

15 A. Yes.

16 Q. Did you personally review material from an iCloud
17 account?

18 A. Yes.

19 Q. Okay. Did you participate in the imaging of the account?

20 A. No.

21 Q. So you didn't do any of the forensic imaging, any of the
22 actual forensic work involved in this case?

23 A. No.

24 Q. By the time you got involved in this case, you were
25 handed something that was done by somebody else and then you

1 began to review that material?

2 A. That's correct.

3 MR. GOROKHOV: Thank you.

4 THE COURT: Just a couple of questions from the
5 Court.

6 Ma'am, were you present when Mr. Meek was arrested?

7 THE WITNESS: No, I was not.

8 THE COURT: Who was present at that point?

9 THE WITNESS: There were other agents from the FBI
10 that conducted the arrest.

11 THE COURT: It's alleged that when Mr. Meek was
12 arrested he said something to the effect of: My life is over.

13 I'm paraphrasing, but if I'm incorrect, you can
14 correct me on that.

15 Have you had any conversations with anyone regarding
16 that?

17 THE WITNESS: No, I haven't.

18 THE COURT: Any questions as a result of the Court's
19 questions?

20 MS. BEDELL: One quick question, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. BEDELL:

23 Q. Special Agent Griffith, the comment about the life being
24 over. Was that made at the time of arrest?

25 A. My understanding is that it was made during -- at the

1 interview during the search warrant.

2 THE COURT: Okay.

3 MS. BEDELL: That's all, Your Honor.

4 THE COURT: Thank you. You may step down, ma'am.

5 Any other witnesses?

6 MS. BEDELL: No, Your Honor.

7 (Witness excused.)

8 THE COURT: Mr. Gorokhov, any witnesses?

9 MR. GOROKHOV: No witnesses, Your Honor.

10 THE COURT: Offer of evidence the way that we'll
11 handle this is -- the government being the proponent of the
12 motion, I'm going to allow you to go first. Take as long as
13 you want. Mr. Gorokhov, you can respond and I'll let you have
14 your rebuttal. And you know me, I'm going to ask questions as
15 we go so be prepared.

16 MS. BEDELL: I'm happy to direct my argument where
17 you find most useful.

18 Your Honor, obviously, you have read the affidavit
19 and you are familiar -- both that this is a presumption
20 offense and that we have offered significant evidence
21 detailing very serious harm to the community here.

22 So obviously, the trafficking conduct is extensive
23 and extends beyond the one count of transportation of child
24 pornography, but also goes beyond that to engaging with minors
25 online and inducing --

1 THE COURT: We can all agree that the allegations
2 are very serious and I think Mr. Gorokhov will even agree that
3 this is a presumption case, presumption of no bond. But the
4 concern is, as I articulated earlier, apparently there is at
5 least, from what I can tell, seven, eight, ten months between
6 the time that Mr. Meek was directly implicated in the wrong
7 that the government alleges and where we are today. And from
8 what I've been made to understand, and please correct me if
9 I'm wrong, there's been no suggestion that he's tried to flee,
10 that he's been available, people have known where he is,
11 apparently he is living with his mother, and apparently he has
12 divorced himself from society to great degree and is basically
13 not doing very much at all.

14 So what has changed between April and now other than
15 the fact that he was formally arrested?

16 MS. BEDELL: Well, I think that fact is significant,
17 Your Honor. I would say that our focus in this argument is on
18 danger to the community rather than as much on his concern
19 about fleeing. But to address the delay, if you will, as you
20 can tell from the affidavit there were, obviously, numerous
21 devices seized at the execution of the search warrant and
22 there's a large volume of data involved in reviewing the
23 content of those devices.

24 So, for example, we referenced the 2 Terabyte Hard
25 Drive which is just a tremendous amount of data right there.

1 It was filled primarily with pictures and images and backed up
2 data. So that alone was a significant undertaking to go
3 through and understand what evidence was there and we had
4 several devices like that.

5 THE COURT: While this case isn't a sentencing case
6 in which we look at 3553(a) factors and all of that and
7 compare sentences received by one person with the sentence
8 that is proposed. And in another case, Mr. Gorokhov is taking
9 the analytical perspective to another level saying that there
10 are people who are similarly situated, every case is
11 different, who had been allowed to remain out on bond pending
12 their actual disposition.

13 What would you say in response to that?

14 MS. BEDELL: There are also a significant number of
15 cases where people who are similarly situated have been
16 detained. For example, Judge Nachmanoff just detained someone
17 on a revocation or, excuse me, on a motion to revoke, an
18 order approximately a year ago, in a similar situation
19 involving online exploitation. Now, all of these cases have
20 distinguishable factors, that is why it is an individualized
21 assessment, but courts in this district do regularly detain
22 individuals for the trafficking offenses, but we have here is,
23 frankly, more than the trafficking offense. It is the online
24 exploitation of children which is a real harm to the
25 community.

1 THE COURT: Mr. Gorokhov has also made reference to
2 his client's standing in the community and I think we can all
3 admire what he has done as far as making sure that our
4 government is transparent, that things that happen are fully
5 divulged, particularly to loved ones, who are impacted
6 directly by the government's involvement in these kinds of
7 things. And Mr. Gorokhov has suggested that that is something
8 that we should consider, not necessarily the things that is
9 going to decide the case, Mr. Meek's standing in the
10 community, which I think is a good standing for what he has
11 done and has proven to be done.

12 What would be your response to that, ma'am?

13 MS. BEDELL: Certainly, that is a relevant
14 consideration of the nature and circumstances of the offense
15 and the defendant. But we will say that the affidavit details
16 conduct going back to at least 2014, Your Honor. So he
17 engaged in all of that admirable conduct, he won those awards,
18 he was an investigative journalist, he parented his children
19 while he was engaging in this criminal conduct that's detailed
20 in the complaint.

21 So it's clear that while it may be commendable, it
22 just doesn't have an effect on his engagement in criminal
23 activity, and he's proven himself adept at carrying on both
24 facets of his life at the same time and also concealing that
25 from the people around him, which raises concerns about a

1 third-party custodian regardless of how well-intentioned they
2 may be, their ability to supervise that kind of conduct,
3 because he's been engaging in this as he's carried on that
4 life.

5 THE COURT: Interestingly enough, and Mr. Gorokhov
6 gets credit for this, Mr. Gorokhov has provided letters of
7 reference from people in law enforcement, which I'm sure you
8 can understand may actually carry a little bit more weight
9 when a person in law enforcement sort of steps up for an
10 individual saying that, I believe that this person is
11 deserving of maintaining his freedom.

12 MS. BEDELL: Well, if that person were here, Your
13 Honor, I'd wonder if they would have said I understood that he
14 was engaged in that conduct before these allegations became
15 public.

16 THE COURT: I think that's fair. All of the letters
17 say I don't really know what's really going on here. One of
18 the letters say, I hear it involves child pornography and
19 that's very serious. The person was very, very, shall we say,
20 insightful as to the standard we need to take a look at, but,
21 again, they were willing to put their name out there for him.

22 MS. BEDELL: And it is wonderful for the defendant
23 that he is in a position where he is able to muster that
24 support and certainly not all the defendants are, but I just
25 don't think it reflects on the danger that he poses because

1 these individuals, you know, if this were a character witness
2 that was testifying, the thing you would draw out is you
3 didn't know he was engaged in this behavior in the first
4 place, you don't live with him, you're not observing him on a
5 day-to-day basis, you just don't necessarily know what's going
6 on in someone's life when there's conduct that they're trying
7 to conceal.

8 THE COURT: Okay. I'll let you follow-up after
9 Mr. Gorokhov.

10 MS. BEDELL: Thank you, Your Honor.

11 THE COURT: Mr. Gorokhov. You've done a good job
12 presenting the best case you can for your client, but as you
13 understand this is a presumption case and the statutes that we
14 look at basically say it's a super-presumption case. It can
15 be rebutted, but there is to be a real strong case to be made
16 to rebut this kind of situation. Again, I think your biggest
17 hurdle to overcome is that the government's allegations
18 suggest grooming, and we all know what that term means. And
19 that is a big concern to the Court and that not only is this
20 individual alleged to have been engaged in the use and
21 solicitation of child pornography, but arguably, if this is
22 indeed true, is taking it a step further by actually having
23 contact with minors.

24 What would be your response?

25 MR. GOROKHOV: Yes, Your Honor. So first of all, I

1 think it is important to address the standard here, which what
2 presumption means and what presumption doesn't mean. And I
3 think that frequently gets lost and misinterpreted so which is
4 why we had filed, prior to the last detention hearing, we
5 filed an actual memorandum. What the presumption standard
6 says is that Mr. Meek does have a burden, a burden of
7 production which Courts have repeatedly said is a very low
8 burden, a very low burden, a limited burden.

9 If he comes forward to show that there are, based on
10 his background, characteristics, et cetera, conditions of
11 release that are likely, not guaranteed, merely likely to
12 ensure that he's not a danger to the community, the
13 presumption then shifts back to the government and we're back
14 in the world of any normal bail case.

15 And what I submit, Your Honor --

16 THE COURT: If that's indeed the case if the
17 analysis was that simple, why did Congress come up with this
18 term, "presumption" and take it a step further and talk about
19 the strong presumption?

20 MR. GOROKHOV: Your Honor, it's never -- I mean I
21 have the memorandum here and I can quote from it. It is filed
22 on the docket.

23 THE COURT: Sure.

24 MR. GOROKHOV: But the courts have repeatedly said
25 it's limited to a burden of production. I think Congress,

1 Your Honor, in creating the scheme understood the liberty
2 stakes that are at interest, the important liberty stakes that
3 are at interest for an individual who's been merely accused by
4 the government. And I do want to talk about the weight of the
5 evidence because I think that's a big problem here for the
6 government.

7 But an individual who's been merely accused, who on
8 the basis of a complaint affidavit signed by an agent, who
9 only had recent participation in the investigation, now he has
10 to be locked up. That's why Congress placed a very limited
11 burden on defendants, even in presumption cases, merely to
12 come forward with the burden of production to show --

13 THE COURT: And I agree with you because there has
14 to be some consideration of the concept of innocent until
15 proven guilty beyond a reasonable doubt. So there needs to be
16 a reasonable balance in that, so I get that.

17 MR. GOROKHOV: And I think what Mr. Meek has come
18 forward with, Your Honor, meets not merely a burden of
19 production, but I would submit to Your Honor an overwhelming
20 burden that Mr. Meek will follow the conditions of release
21 that he will do what he is told.

22 THE COURT: Let me ask a general question. If you
23 don't want to answer it, I appreciate it. The agent testified
24 with regard to certain devices that were seized and certain
25 forensic analysis that was done, and again you don't have to

1 answer this if you don't want to. Is there anything that you
2 believe as part of your theory of defense that these items
3 were not his?

4 MR. GOROKHOV: Your Honor, to be honest with you
5 this is a unique situation. I might want to answer that
6 question if I could. But I have not received a shred of
7 discovery. And that's another -- that's, I think that's
8 another one of those major weighty issues, because we're
9 supposedly, in this adversarial world, where, you know,
10 government doesn't just get to make accusations and we sit
11 here with our hands tied behind our back and blindfolded. But
12 that's, in effect, what's happening. They've put on an agent,
13 even here today, who had participation in only a small
14 fraction of the investigation and everything she's reviewed
15 was handed to her by someone else who obtained the evidence,
16 imaged the evidence. And as Your Honor knows, we've been
17 through this before. The devil is in the details when it
18 comes to these forensic reviews.

19 So quite simply, Your Honor, I'm sitting here with
20 like my hands tied behind my back as to the allegations. What
21 I will say, regarding Your Honor's question on grooming, is
22 that the government can't speak out of both sides of its mouth
23 here. On the one hand, it says the conduct goes to 2014, on
24 the other hand, they come forward with zero evidence and not
25 even an allegation that Mr. Meek ever attempted to meet a

1 child, tried to meet a child, you know, had improper physical
2 contact with a child. Grooming, generally, refers to kind of
3 priming a child so that you can then go and have contact with
4 that child.

5 THE COURT: Unfortunately, both you and I and the
6 representatives of the government have a lot of experience in
7 these kinds of cases and I think we all understand that in
8 these kinds of cases there's a continuum that we tend to see.
9 It starts out with a little something, then it sort of evolves
10 into something else, and then there's a grooming, which from
11 what I understand and the science, can take a period of time,
12 and then you get the meeting, and then you get the act. So
13 it's a process. I'm not suggesting that your client did this,
14 but his -- the allegations against him suggest that continuum.

15 MR. GOROKHOV: Well, Your Honor, but then again if
16 he -- if they say the conduct goes back to 2014 and have
17 absolutely zero evidence and not even an allegation that he
18 tried to meet a child, I think that -- I think the conclusion
19 there is -- it was never his intention to meet a child.
20 Assuming -- I'm saying these are allegations, Your Honor.

21 THE COURT: Yes.

22 MR. GOROKHOV: But I think the fair conclusion there
23 is not that he was preparing after nine years to finally go
24 meet a child. I think the conclusion is that that was never
25 his intention, you know, that was never his intention. And I

1 think we have to give a defendant some benefit of the doubt.
2 He can't -- you know, he can't be that the government comes
3 here and puts forward a theory and, you know, and he's
4 helpless to defend against that.

5 THE COURT: But what I'm assuming Ms. Badell is
6 going to come back with is that because of the nature of this
7 kind of offense that one could argue, again, looking at
8 allegations here, that Mr. Meek, according to the government,
9 was starting to begin the process of acting on his fantasies.

10 MR. GOROKHOV: Again, Your Honor, I think that's a
11 theory. I think even beyond, you know, accusations that
12 aren't even returned by a grand jury but signed by an agent
13 with limited knowledge of an investigation, to pile on top of
14 that a theory is, you know, a step much too far when you have
15 an individual like Mr. Meek. And I want to address the
16 evidence about his life and the way he's lived his life. But
17 to come here and spin out a theory about something he might
18 have done, I would say, Your Honor, even beyond --

19 THE COURT: And another question that I'm going to
20 ask Ms. Bedell when she gets back up is if this case was as
21 sensitive and, I think, developed as is being suggested by the
22 government, why did it take so long to even go to the grand
23 jury to seek an indictment? That's a question that I would
24 have, but, again, we'll hear.

25 MR. GOROKHOV: Yes, Your Honor.

1 THE COURT: Let's hear about your client.

2 MR. GOROKHOV: Yes, I do want to address the
3 situation with my client. You know, in terms of his
4 background, I have tried to be as both complete and concise as
5 I could, so I'm not going to stand here and repeat everything
6 that I know Your Honor has reviewed in detail. What I will
7 say is I think it's extraordinary that Mr. Meek has an
8 individual like Spike Bowman, you know, a person who was the
9 head of the National Security Law Unit of the FBI and spent
10 his life working in national intelligence and law enforcement.
11 And he knows the allegations against Mr. Meek and he's putting
12 his name forward saying that Mr. Meek will keep his word.

13 An individual like Raymond Gannon, 28 years in the
14 FBI, Your Honor. An individual like Douglas Kimmy, 27 years a
15 police officer and a former member of the U.S. military.
16 These things should not be taken lightly and I know the Court
17 doesn't take them lightly. And so, when we say "similarly
18 situated defendants," I know the government referred to an
19 individual that had Judge Nachmanoff had considered, I don't
20 think there's really a comparable individual. I would go so
21 far as to say that.

22 In terms of kind of his record of good works in the
23 community and the people that are willing to stand behind him
24 in the community knowing what they know about the allegations
25 in this case.

1 The government says --

2 THE COURT: I think we can all agree the things that
3 Mr. Meek has done are heroic, no doubt about it. But even
4 heroic people can lose their way, and that's, I believe, what
5 the government is suggesting here.

6 MR. GOROKHOV: I understand that. But what the Bail
7 Reform Act says is we're at a stage where we haven't heard any
8 evidence, all we have are accusations. Right. And in these
9 circumstances, the reason why we considered the background
10 history and, you know, community ties and all of those things
11 is because the Court has to make a determination based on how
12 much faith they can place on an individual. And so, the Bail
13 Reform Act tells us these things matter. These things matter
14 a lot, because the accusations haven't been proven yet but
15 this man's track record, to some degree, proven by among other
16 people, someone like Spike Bowman who is standing by his side.

17 And I would like to say the government says well all
18 of that is good and well but Mr. Meek was doing these heroic
19 acts and has the support of all these people, but at the same
20 time he was committing horrible crimes. Well, if that
21 argument held any water, Your Honor, if that argument held any
22 water, then it would invalidate an entire section of the Bail
23 Reform Act because every individual who comes before the
24 Court, the Court has to consider their background, history,
25 and characteristics. And if the government's argument were

1 true, the Court could simply say, yeah, but he was doing
2 crimes so I'm not going to consider those things. So their
3 argument absolutely makes no sense. It's illogical and it's
4 completely contrary to the way that Congress intended this to
5 work.

6 THE COURT: I had an opportunity to review the
7 hearing before Judge Vaala, and I actually talked with Judge
8 Vaala to find out what was going on in the case because I
9 needed to prepare quickly.

10 MR. GOROKHOV: Yes, Your Honor.

11 THE COURT: And in the, I think, the hearing itself
12 she said something to the effect of "it's a close case." I
13 think those were the terms that she used. If indeed it was a
14 close case, analytically, doesn't that sort of argue against
15 your position?

16 MR. GOROKHOV: No, Your Honor. I think the question
17 is there's -- it's either a yes or no question. Either there
18 are conditions of release, in which case release is not
19 discretionary, it's mandatory, or there simply aren't
20 conditions of release. And what Judge Vaala said is, Yeah, to
21 me it's a close case, but I think there are conditions of
22 release, and at that point the Bail Reform Act says release at
23 that point is mandatory. The conditions are discretionary.
24 So the extent of supervision and all of that. But once that
25 threshold is crossed that there are conditions that would

1 reasonably assure. And I think it's important here, Your
2 Honor. The government kind of pretends that, you know, there
3 has to be a guarantee. And while I submit to Your Honor
4 letters in support from individuals like the ones he has are
5 as close to a guarantee as the Court can get. The cases say
6 otherwise. The cases say there just has to be a reasonable
7 assurance that the conditions of release. There's no
8 guarantees in life and there's no guarantees under the Bail
9 Reform Act. And the courts recognized that it has to be
10 merely a reasonable assurance that he's going to appear.

11 And I do want to talk, Your Honor, about the
12 evidence, the overwhelming evidence that he's going to appear.
13 And that he's not going to violate the conditions of release.
14 But before I do, I wanted to say also that Your Honor referred
15 to these comparator cases that we cited, and what I want to be
16 clear is these cases are not similar to Mr. Meek's, these
17 cases are worse than Mr. Meek's, because in these cases
18 individuals either had sexual contact with minors, without
19 question, or they were on their way, they were doing the thing
20 that the government is theorizing that maybe Mr. Meek one day
21 might have gotten around to doing.

22 In those cases, these individuals were either
23 sexually engaging with minors hands on or on their way to do
24 so, and they were stopped by law enforcement. And yet, judges
25 in this court have repeatedly said, well, you know, I look at

1 the background and history and characteristics and I find that
2 release is appropriate. So I would say, Your Honor, that,
3 given his background and given that his crime is certainly not
4 as serious as the ones we talked about, certainly there can be
5 conditions of release.

6 I wanted to address the government's other argument,
7 which is -- I know Your Honor wants to know about Mr. Meek's
8 statement about supposedly his life being over. And I think
9 this one is really an argument that I really didn't expect the
10 government to repeat because --

11 THE COURT: I think the reason why they're
12 suggesting that is because one of the inquiries that the Court
13 must make is whether or not he's a danger to himself.

14 MR. GOROKHOV: Yes, Your Honor. And here the
15 evidence, again, is overwhelmingly in favor of Mr. Meek that
16 he's not a danger to himself. In April, Mr. Meek's apartment
17 was searched and Mr. Meek realizing that his apartment was
18 being raided by armed federal agents made, I would argue, the
19 accurate observation that his life was, in a sense, over.
20 Because he was in a high power -- a high profile investigative
21 journalist, and when you're in his position and this kind of
22 thing happens, your professional life is certainly over. And
23 what has Mr. Meek done -- so it's a true statement. And you
24 know it's a statement of an individual whose head is very much
25 in the realm of reality, right. And what has he done since

1 the nine months since his apartment was raided? You know the
2 government talks about the fact that he left his job and moved
3 out of his apartment. Well, he left his job because he didn't
4 want to continue working as an investigative journalist at ABC
5 News while he was under federal investigation.

6 THE COURT: That makes sense. I buy into what
7 you're saying and plus he did something, which I thought was
8 somewhat redemptive in that apparently he was up for an award
9 with another person and did not want to embarrass that person
10 by showing up when he was under federal investigation. That
11 shows something.

12 MR. GOROKHOV: And he moved in with his mother
13 because he wasn't going to have an income, right. That's a
14 responsible, conscientious thing to do. He notified the
15 government that he was moving in with his mother. He offered
16 to give the government his passport. The government didn't
17 accept his offer. He, you know, all the time I repeatedly
18 told the government if there's anything you need to know about
19 Mr. Meek, where he is, what he's doing, or anything like that,
20 please tell us because we want this to be, you know -- we want
21 there to be no surprises, we want to be --

22 THE COURT: Transparent.

23 MR. GOROKHOV: He relinquished his firearms and put
24 them in a storage unit where only his mom and another
25 individual have access. He does not have access.

1 He's done all of these things, Your Honor, and I
2 would say these are the things that a person who is
3 responsible and conscientious does. And there's overwhelming
4 evidence that he's going to take orders imposed by this Court
5 very, very seriously.

6 And you know, Your Honor, I would go so far as to
7 say that if it's not Mr. Meek who is released, you know, what
8 kind of a message does that send. We want people to be
9 cooperative. We want people to behave exactly the way
10 Mr. Meek behaved after he realized that he was being looked at
11 by the government.

12 And so, I would say, Your Honor, for the government
13 to come up here and twist his actions and his statements into
14 like him being some kind of a danger to himself, I think that
15 kind of hurts more than just Mr. Meek.

16 The final thing I will say, Your Honor, is the
17 government says that, you know, because the nature of his
18 alleged defenses are computer offense, computer-based offenses
19 we can't monitor what he's doing. And that is a -- again,
20 another extraordinary argument they've brought, because it
21 would --

22 THE COURT: I have something in common. The Fourth
23 Circuit had a question for me when they remanded a case that
24 we did. I was correct on most of it and they remanded a case
25 to me because they wanted me to explain why I would prevent a

1 person convicted of child pornography not to have access to
2 adult pornography and video games, which I found a little bit
3 perplexing, but, again, that's the way they look at it. So
4 it's actually to your advantage.

5 MR. GOROKHOV: And I think for the government to
6 come here and say you can't monitor people who commit crimes
7 online is to write an entire category of people out of the
8 Bail Reform Act. It's inconsistent with the recommendations
9 of pretrial office -- the pretrial office, which says there
10 are conditions that can be imposed.

11 THE COURT: Answer this for me, Mr. Gorokhov.
12 Again, I'm not suggesting that your client will do this.
13 We're talking from a hypothetical standpoint.

14 MR. GOROKHOV: Yeah.

15 THE COURT: Suppose there's an order in which I
16 preclude him from having access to the internet and you agree
17 to that and I preclude him from having access to adult
18 pornography and you agree to that, the government and the
19 probation office are going to focus on what is in his home,
20 what he actually has direct access to.

21 What is to prevent someone from giving him something
22 that he could access through another means that he does not
23 have any real connection to? Where is the check and balance?
24 A probation officer can't be with him 24/7. It can only do
25 random checks.

1 MR. GOROKHOV: Well, I think, again, the first if we
2 were just talking about a general person and not Mr. Meek,
3 just, you know, your average defendant, right, I think the
4 answer there would be the law requires reasonable assurance
5 and the pretrial services office believes they can provide
6 reasonable assurance through the measures that they talk about
7 in their report. Right.

8 Now, we add Mr. Meek into the mix and we add the
9 fact that the way he's conducted himself over the last nine
10 months, we add the fact that the people who know him
11 intimately, not just any old regular people, but law
12 enforcement people, are willing to vouch for him, you add all
13 of that into the mix and basically what it comes down to is
14 that Mr. Meek will keep his word. And Congress, as I've said
15 before, Your Honor, Congress does not require an absolute
16 100 percent guarantee. Congress requires a reasonable
17 assurance.

18 THE COURT: But there at least appears to be some
19 tension between the Bail Reform Act and the standard for this
20 kind of case and the presumption of no bond.

21 Where is the sweet spot?

22 MR. GOROKHOV: I think the sweet spot is if the
23 defendant can come forward with a low burden, burden of
24 production, now it's back to the government like any old case.
25 And again, Mr. Meek has come forward not just with a burden of

1 production, Your Honor, but I would say overwhelming evidence.
2 Nine months of evidence at least, arguably 30 years of
3 evidence that he is a man of his word and he will do exactly
4 what this Court tells him to do. And he will abide by these
5 conditions of release to the letter and he knows the
6 consequences, Your Honor, if he does not. He's living those
7 consequences right now in a cell where he's by himself 24
8 hours a day.

9 THE COURT: Ms. Bedell, you get the last word,
10 ma'am.

11 MS. BEDELL: Your Honor, just to address a small
12 point first and then respond more directly to some of the
13 questions and points that were raised. So just to the point
14 about discovery, on February 2nd I did inform Mr. Gorokhov
15 that the FBI had evidence available for the defendant's review
16 and we were happy to facilitate that. Understandably, he did
17 not take the limited time between now and then, but it was
18 made available, and, frankly, it just does not go to the
19 weight of the evidence. The fact that his cross-examination
20 has been limited to questions about when we learned certain
21 information, again, demonstrates that very strong evidence
22 here.

23 I also want to address, I think, put a little bit of
24 a misperception that seems to be coloring some of the
25 discussion here and that the only harm to children is through

1 physical contact, and also relatedly that grooming is only
2 leading up to physical contact.

3 Now, it is correct that we do not have allegations
4 in the complaint that relate to meeting up with a child in
5 person, and to me that is not relevant.

6 THE COURT: And I appreciate the fact that because
7 of this type of litigation and because of the statutory
8 framework that Congress came up with that it is clear that the
9 grooming is one aspect of it. The fact that you victimized
10 children by subjecting them to being part of the internet
11 interplay between people of similar desires is the greater
12 concern in this kind of case, so I get that.

13 MS. BEDELL: Thank you, Your Honor. And there's the
14 trafficking harm, which in some ways, you know, I think we
15 quoted, is a repetition of the abuse. But the fact is that
16 online exploitation, what we've seen Mr. Meek engaging in,
17 he's the original abuser there. He is an original victimizer.
18 It is not just if he had met up with someone in person. So it
19 sounds like you understand that. I appreciate that, Your
20 Honor.

21 I also wanted to address something you mentioned at
22 the very beginning that you said we hadn't seen any
23 problematic behavior from him since April. I would agree
24 that's accurate regarding risk of flight, but we can't make
25 that statement when we talk about what he's doing online. The

1 fact is that we don't know what he's been doing online since
2 that time. So I don't think we can say that just because we
3 haven't caught him doing something in the last period doesn't
4 mean he's not a continuing harm to the community even in the
5 intervening nine months or whatever the period is.

6 To answer your question about why it has taken so
7 long, I was addressing the point about the voluminous data,
8 and understandably we have to understand what the evidence is
9 and just because you even get into the phones, some of these
10 phones were password protected. Just because you get in, it
11 doesn't mean the evidence immediately reveals itself.

12 The other part is that, of course, you're familiar
13 with the timelines in this district. And so, we have a
14 careful line that we have to strike between charging a
15 defendant and making sure we still have the opportunity we --
16 we need to complete our investigation.

17 To the point about an affidavit versus a complaint,
18 cases in this district are regularly charged by affidavit.
19 They provide ample evidence for the Court to review more so
20 than what might be available if something had come before this
21 Court for a detention hearing in an indictment posture. And
22 so, I do think that is ample evidence and also certainly not
23 outside the realm of normal practice.

24 I wanted to address the argument that our approach
25 would invalidate the Bail Reform Act. And I just, obviously,

1 don't agree with that. I think the inquiry here is the
2 balancing inquiry, and, you know, just saying that electronic
3 monitoring is sufficient would invalidate in the other
4 direction. There will always be some condition that could
5 satisfy if electronic monitoring suffices.

6 So the question here is whether the available
7 conditions are appropriately balanced against the risk of
8 harm. And again, we have a situation here where we have an
9 original abuser. He is engaged in that original harm. And
10 so, I submit, as we've been arguing, and I won't reiterate all
11 of those points, but that is not satisfied in this specific
12 instance.

13 And I believe those are all the points I would like
14 to make unless you have additional questions that you would
15 like to address.

16 THE COURT: No, ma'am.

17 MS. BEDELL: Thank you, Your Honor.

18 (A pause in the proceedings.)

19 THE COURT: I'm going to state the applicable law
20 and the analytical perspective that the Court is going to
21 provide to justify the conclusion that's reached here.

22 A government appeal of a magistrate's release order
23 is governed by 18 U.S.C. 3145(a). The review of the
24 magistrate's decision is *de novo* as we have conducted here
25 under the *United States v. Stewart* case, a 2001 case out of

1 the Fourth Circuit.

2 In this regard, the Court makes an independent
3 determination of a proper pretrial detention or conditions of
4 release.

5 To determine that a person should be detained
6 pending trial, a Court must find "no condition or combination
7 of conditions will reasonably assure the appearance of the
8 person as required and the safety of any other person and the
9 community."

10 If there's probable cause to find that the defendant
11 committed an offense involving a minor, a rebuttal presumption
12 arises that no condition or combination of conditions will
13 reasonably assure the safety of other persons and the
14 community. That is governed by 18 U.S.C. Section
15 3142(e) (3) (E).

16 In such a case, a defendant bears the burden of
17 production to come forward with evidence to suggest that the
18 presumption is unwarranted in his or her particular case. If
19 the defendant successfully rebuts the presumption, the burden
20 returns to the government under the *Boyd* case out of this
21 district in 2007.

22 Even if the defendant bears his burden, the
23 presumption remains a fact in deciding whether to detain a
24 defendant because it reflects Congress's substantive judgment
25 that particular classes of offenders should be detained prior

1 to trial. That was articulated in *United States v. King* and
2 several other cases in sister jurisdictions of this court.

3 If the burden returns to the government, they bear
4 different burdens with respect to the dangerousness and risk
5 of flight. The government must prove by clear and convincing
6 evidence that no condition or combination of conditions will
7 reasonably assure the safety of any other persons and the
8 defendant.

9 The Court takes a look at under 3142(g) the nature
10 and circumstances of the offense, including whether the
11 offense involves a minor victim, the weight of the evidence
12 against the person, the history and characteristics of the
13 person, including the person's character, physical and mental
14 condition, family ties, employment, financial resources,
15 length of residence in the community, community ties, past
16 conduct, history relating to drug or alcohol abuse, criminal
17 history, and records concerning appearances at court
18 proceedings.

19 The nature and seriousness of the danger to any
20 person to the community that would be posed by the person's
21 release is tantamount under 3142(g) (4).

22 In the hearing before Judge Vaala, defense counsel
23 identified four cases where the magistrate released a
24 defendant charged with an offense involving a minor. In the
25 *United States v. Delgado*, which is distinguishable, there was

1 a single victim who knew the defendant. The primary
2 consideration in that case was the safety of the single minor
3 who the defendant was barred from contacting. That is not the
4 case here with multiple victims spread out across the United
5 States and potentially beyond.

6 The *United States v. Moser* case, which is cited, the
7 defendant in that case occurred in 2008 when the state of the
8 internet was much different. Instagram, SnapChat, and Omegle,
9 which the defendant purportedly or allegedly used to contact
10 his victims, were not even created at that time.

11 *United States v. Sims*, there's some also
12 distinguishing characteristics. There was no evidence of
13 actual communication between the defendant and the minor
14 victims at the time, only communication with an undercover
15 agent. The defendant and Sims did not pose to be someone
16 else. Apparently and allegedly this defendant has apparently
17 impersonated teenage girls and engaging in grooming activity.

18 Also, the defendant and Sims only used one messaging
19 service to contact minors indicating a relatively
20 unsophisticated method of contacting minors. That is
21 juxtaposed with the instant case where the defendant has
22 allegedly used multiple avenues to contact minors, including a
23 level of sophistication as not of the same as in Sims.

24 And finally, the *United States v. Cheves*, the
25 distinguishing characteristics on possibly two victims who

1 lived outside of the United States and the chief concern there
2 was for the safety of the -- of the victims in that case. And
3 there was no indication that China was going to be an avenue
4 or venue where it could be implicated in the defendant's
5 conduct.

6 Ultimately, in deciding this case the Court looks at
7 the following factors:

8 Obviously, the Court has the authority to revoke the
9 order of release, and there's a rebuttable presumption of
10 detention that exists. The egregious nature of the alleged
11 offense, the ample evidence in this case at this point, the
12 defendant's lengthy pattern of engaging in conduct and the
13 danger he poses to the community weigh strongly in favor of
14 detention.

15 Nature and circumstances suggest that the defendant
16 is currently charged with transportation of child pornography.
17 The affidavit reveals that his offense conduct is much more
18 extensive. The transportation events itself involves the
19 distribution and receipt of child pornography with individuals
20 that the defendant apparently sought out online for the
21 purpose of discussing violent sexual fantasies about child
22 abuse and exchanging information.

23 The defendant was at least a member of one community
24 dedicated to the exchange of this information and it is
25 alleged that he actively contributed to the group. Even more

1 concerning, the defendant has a history and pattern of
2 allegedly engaging in and trying to engage in sexual conduct
3 and conversation with minors online. For example, a minor
4 victim told law enforcement that the defendant pressured her
5 to send pictures depicting sexual explicit conduct. Law
6 enforcement is alleged to have found 11 images of this minor
7 on the defendant's phone, including nude images with her
8 breasts and pubic region exposed.

9 Law enforcement also located the chat, allegedly,
10 between the defendant and the minor in which he manipulated
11 her by offering access to the public figure he knew she,
12 quote, loved most in the world.

13 In other instances, the defendant concealed his
14 identity allegedly while he engaged in these online exploits
15 with minors. Allegedly, he even posed as an adolescent girl
16 using that person to engage in sexual conversations with other
17 young girls.

18 The defendant's interests are broad. The evidence
19 reveals, allegedly, a man interested in trading images
20 depicting everything from the rape of infants to the bondage
21 of S&M treatment of prepubescent boys, to the sexual
22 exploitation of late adolescents.

23 The government alleges that his conduct spans
24 multiple platforms and years. His devices, allegedly,
25 contained conversation with minors on SnapChat, Instagram, and

1 other devices.

2 Of course, the defendant does not just view
3 the information, allegedly distributed. As courts have
4 regularly recognized "such images are permanent records of the
5 child's participation and the harm to the child is exacerbated
6 by the circulation. *United States v. Burgess* recognize that
7 Fourth Circuit case in 2012.

8 These children who "must live with the knowledge
9 that adults like the defendant can pull out a picture or watch
10 a video that has recorded the abuse of them at any time,
11 suffer direct and primary emotional harm when another person
12 possesses, receives or distributes the material."

13 The weight of the evidence, as it is at this stage,
14 is compelling. The messages and images were located and on
15 devices throughout the defendant's home where he lived alone.
16 At this point, the devices contained numerous indications that
17 they belonged to him, including his personal accounts and
18 data. They had been used to engage in illegal activities in
19 close proximity when he had used them for other business and
20 personal affairs.

21 As Judge Vaala stated, this case is difficult. It
22 is compelling because this man has done a lot of things which
23 have contributed significantly to the public good. He has
24 done a lot of great things, allowing families to get closure
25 on, things that were very important to them in their lives,

1 but this has to be considered in balance, more particularly,
2 with the nature of the offense and the circumstances which the
3 government alleges to have been able -- alleges they are able
4 to prove in the context of this case.

5 So the Court in this matter is going to order that
6 Mr. Meek remain detained. All right.

7 Mr. Meek, I'll say this to you, sir, you have an
8 excellent lawyer. Mr. Gorokhov's reputation with me is
9 outstanding. We have done cases in the three years that I
10 have been here and he is an excellent advocate. He works hard
11 for his clients. So let me encourage you to work with him as
12 best you can to allow yourself to be put in the best position
13 that you can, sir. I know you're disappointed, but I'm sure
14 you understand the analysis that the Court had to go through.

15 Anything else from the government?

16 MS. BEDELL: No, Your Honor. Thank you.

17 THE COURT: All right. Where are we as far as
18 getting this case ready for some sort of disposition? Where
19 are we?

20 MS. BEDELL: Your Honor, that's something we have
21 discussed with defense counsel. I don't think we're in a
22 position to talk about a resolution at this point, but we
23 expect to be here hopefully in the next week or two.

24 THE COURT: Okay. I will tell you a concern about
25 this, I don't want this case to sort of just sit and wait. I

1 want it to move. Obviously, in making a determination that
2 Mr. Meek should be detained, it sort of ups the ante as far as
3 the government's obligation to move this case along. So let's
4 do all that we can to make sure that we get this case on the
5 docket and expeditiously considered.

6 MS. BEDELL: Absolutely, Your Honor. Thank you.

7 THE COURT: Thank you. We're done.

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9 **(Proceedings adjourned at 12:57 p.m.)**

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Final pretrial conference the case of the **UNITED STATES OF AMERICA versus JORDAN GORDON MEEK**, Criminal Action No.: 1:23-mj-32, in said court on the 6th day of February, 2023.

I further certify that the foregoing 45 pages constitute the official transcript of said proceedings.

In witness whereof, I have hereto subscribed my name, this February 9, 2023.

_____/s/_____
Tonia M. Harris, RPR
Official Court Reporter