

M3FKLEWC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA,

4 v.

21 CR 729 (LAK)

5 CHANETTE LEWIS, a/k/a "Netty
6 Hott," TATIANA BENJAMIN, a/k/a
7 "Ta Banks," a/k/a "Lyric
8 Muvaa," TATIANA DANIEL, a/k/a
9 "Kimora Daniel," and HEAVEN
10 WEST,

Defendants.

-----x

11 New York, N.Y.
12 March 15, 2022
13 3:15 p.m.

Before:

14 HON. LEWIS A. KAPLAN,

District Judge

15 APPEARANCES

16 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

17 MICHAEL NEFF

Assistant United States Attorney

18 THOMAS A. FARINELLA

Attorney for Defendant Benjamin

20 MARLON GEOFFREY KIRTON

Attorney for Defendant West

21 EZRA SPILKE

Attorney for Defendant Daniel

23 DAVID PATTON

FEDERAL DEFENDERS OF NEW YORK

Attorney for Defendant Lewis

24 BY: MARK B. GOMBINER
25

M3FKLEWC

1 (Case called)

2 THE DEPUTY CLERK: Government, are you ready?

3 MR. NEFF: Good afternoon, your Honor. Michael Neff
4 for the government.

5 THE COURT: Mr. Neff.

6 THE DEPUTY CLERK: Defendant Tatiana Benjamin, are you
7 ready?

8 MR. FARINELLA: Yes, your Honor. Good afternoon, your
9 Honor. Thomas Farinella for Ms. Benjamin.

10 THE COURT: Good afternoon.

11 THE DEPUTY CLERK: Defendant Heaven West, are you
12 ready?

13 MR. KIRTON: Good afternoon. Marlon Kirton for
14 Ms. West. Your Honor, Ms. West is on her way to court now.

15 THE COURT: Right, so she's over 20 minutes late
16 already.

17 MR. KIRTON: It's actually a miscommunication between
18 myself and her regarding the time of today's conference, and
19 she's on her way. I think it's our office's fault. She was
20 aware of today's conference. I think we gave her the wrong
21 time for today's conference.

22 THE COURT: Okay.

23 THE DEPUTY CLERK: Defendant Tatiana Daniel, are you
24 ready?

25 DEFENDANT DANIEL: Yes, your Honor.

M3FKLEWC

1 MR. SPILKE: Yes. Ezra Spilke for Defendant Tatiana
2 Daniel.

3 THE COURT: Good afternoon.

4 THE DEPUTY CLERK: Defendant Chanette Lewis, are you
5 ready?

6 DEFENDANT LEWIS: Yes.

7 MR. GOMBINER: Yes. Mark Gombiner for Ms. Lewis.
8 Good afternoon, Judge.

9 THE COURT: Good afternoon, Mr. Gombiner.

10 Okay, I think we've not previously conferenced this
11 case, right?

12 MR. NEFF: We were together, your Honor, in early
13 December, right after the indictment came in.

14 THE COURT: Okay. Let me see if I have notes from
15 that.

16 So where are we, Mr. Neff?

17 MR. NEFF: A few updates, your Honor:

18 First, per the discovery schedule set by the Court,
19 the government produced general discovery in January and
20 produced device discovery earlier this month. Of course, we
21 are mindful of our ongoing obligations, and if we come into
22 possession of any additional Rule 16 material, we will promptly
23 produce it.

24 The second update, Judge, is that our investigation is
25 ongoing both as to the existing charges and as to additional

M3FKLEWC

1 conduct currently uncharged involving more than one defendant
2 in this case. Although the additional conduct is uncharged,
3 the government has generally been producing materials relating
4 to that conduct. We've been producing it on a rolling basis to
5 any applicable defendant or defendants.

6 In that regard, I should note that as part of the
7 ongoing investigation of this additional conduct, the
8 government has obtained three search warrants last month, which
9 have all been produced. Those warrants generally relate in
10 part to charged conduct and in part to uncharged conduct.

11 THE COURT: When you say they've been produced, do you
12 mean that the warrants and the applications have been produced,
13 or that the product of the searches as well has been produced?

14 MR. NEFF: All three warrants and applications have
15 been produced.

16 As to two of the three warrants, the fruits have also
17 been produced.

18 As to the third and final warrant, that warrant was
19 for social media records for one defendant, and at this point,
20 the government has not yet received returns.

21 The third and final update, your Honor, which is brief
22 in nature --

23 THE COURT: Just a minute. When you're talking about
24 returns, you're talking about stuff from social media
25 companies; is that right?

M3FKLEWC

1 MR. NEFF: That's correct, your Honor.

2 THE COURT: Okay.

3 MR. NEFF: The final update is simply that preliminary
4 negotiations are under way between several of the parties in
5 this case.

6 THE COURT: Okay.

7 Now, I don't have the notes I normally have today. Do
8 we have a motion schedule?

9 MR. NEFF: Yes, your Honor.

10 Your Honor bifurcated the motion schedule. I believe
11 the general motions date for everything except for the devices
12 I think was March 1st. I'm just double-checking the transcript
13 from the last conference.

14 That's correct. So the motion date is on or before
15 March 1st as to everything other than the three devices that
16 were seized on the date of arrest. And as to those --

17 THE COURT: So there are no motions in that category,
18 in fact?

19 MR. NEFF: Correct. Nothing was filed, your Honor.

20 THE COURT: Okay.

21 MR. NEFF: I am also now just checking the date as to
22 the...

23 May 1st, your Honor, for any motions directed to the
24 contents of the three devices.

25 THE COURT: Okay. Thank you.

M3FKLEWC

1 From what you say about continuing investigation, it
2 sounds like there may be a superseder coming; is that right?

3 MR. NEFF: That is very much a possibility, your
4 Honor.

5 THE COURT: What's the timetable?

6 MR. NEFF: It's hard to peg a specific date, Judge,
7 because the records are not yet in our hands, and we are not in
8 control of that timeline, but I can assure the Court, we are
9 prioritizing this investigation and case and moving as quickly
10 as we responsibly can.

11 THE COURT: Okay.

12 It sounds like it might be premature to set a trial
13 date today.

14 MR. NEFF: Certainly no objection from the government,
15 your Honor. And from the preliminary conversations I've had
16 with defense counsel, I anticipate that there may be no
17 objection from them as well.

18 THE COURT: No objection to rolling it without a date
19 or no objection to setting one?

20 MR. NEFF: I think the proposal may be to come back at
21 an acceptable point for the Court, at which point we would then
22 presumably set a trial date.

23 THE COURT: Okay.

24 Does someone on the defense side want to enlighten me?

25 And, Mr. Kirton, is that your client who just walked

M3FKLEWC

1 in?

2 No?

3 MR. KIRTON: No.

4 THE COURT: Okay. Thank you.

5 Any volunteers?

6 MR. SPILKE: I think 60 days should be sufficient. We
7 have new discovery that's been coming in on a rolling basis.
8 These devices are probably the most voluminous items in the
9 production, and they just came earlier this month, so within
10 the last two months, I think 60 days.

11 THE COURT: All right. Let's set another conference
12 in the middle of May, please.

13 THE DEPUTY CLERK: Sure, Judge.

14 How about Tuesday, May 17, at 2:30, Judge?

15 THE COURT: Does that work for everyone?

16 MR. SPILKE: Yes, your Honor, for Ms. Daniel.

17 MR. KIRTON: Yes, your Honor.

18 MR. GOMBINER: Yes, Judge.

19 THE COURT: Okay.

20 I suppose the government has an application?

21 MR. NEFF: Yes, your Honor.

22 The government seeks to exclude time between today and
23 May 17, 2022, for the continued review of discovery, the
24 preparation of any motions by the defense, and so that the
25 parties can continue pretrial negotiations.

M3FKLEWC

1 THE COURT: Any objection?

2 MR. KIRTON: No objection.

3 MR. GOMBINER: No objection.

4 MR. SPILKE: No objection.

5 MR. FARINELLA: No objection.

6 THE COURT: Time is excluded through May 17, 2022. I
7 find that the interests of justice served thereby outweigh the
8 interests of the defendants and the public in a speedy trial
9 for the reasons quite evident on this transcript – continuing
10 discovery, continuing negotiations toward a disposition, and
11 time to make motions with respect to the device searches.

12 Now, Mr. Kirton, you had an application?

13 MR. KIRTON: Yes, your Honor.

14 I had an application to reduce the number of cosigners
15 in this case from two to one. I've conferenced the matter with
16 both the government as well as pretrial services, and there's
17 no objection. The reason being that originally both of my
18 client's parents were cosigners – my client's mother was
19 approved quite some time ago and my client's father indicated
20 to all the parties that he would be willing to be a cosigner –
21 but, unfortunately, he has not followed through on his
22 promises. We've tried to reach him by phone by email, text
23 message, through third parties, and, for whatever reason, he
24 has not followed through. And she does not have any additional
25 persons who are financially responsible in her life that would

M3FKLEWC

1 be willing to be cosigners in this case.

2 So I move to have her bail conditions modified to
3 allow for one cosigner and not two. She's otherwise in
4 compliance with the conditions of her bail. I understand she's
5 not here now, but --

6 THE COURT: Not the strongest posture in which to find
7 yourself, I understand that.

8 MR. KIRTON: She's otherwise in compliance with the
9 conditions of her bail.

10 THE COURT: Right.

11 Mr. Neff, I take it you have no problem, right?

12 MR. NEFF: Correct, your Honor.

13 THE COURT: Granted.

14 Tell her to show up next time on time.

15 MR. KIRTON: Yes, your Honor.

16 THE COURT: Thanks, folks.

17 * * *