

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CR-60173-KMW

UNITED STATES OF AMERICA,) Fort Lauderdale, Florida
Plaintiff,) July 15, 2024
vs.)
CAROLYN DENISE WADE and TRACY D.)
WADE,)
Defendants.) Pages 1 to 54

TRANSCRIPT OF GARCIA/RULE 44(C) HEARING
HELD BEFORE THE HONORABLE JARED M. STRAUSS
UNITED STATES MAGISTRATE JUDGE

FOR THE GOVERNMENT:

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ON BEHALF OF THE DEFENDANTS:

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Proceedings recorded by mechanical stenography from a digital
audio recording; transcript produced by computer-aided
transcription.

1 (Call to the Order of the Court.)

2 THE COURT: This is Tracy D. Wade. It's Case
3 Number 23-60173.

4 Could I please have your appearance from the
5 Government?

6 MS. SHICK: Good morning, Your Honor, Alicia Shick on
7 behalf of the United States.

8 THE COURT: Good morning, Ms. Shick.
9 And on behalf of the defense.

10 MR. WILCOX: Good morning, Your Honor. Daryl Wilcox
11 on behalf of Tracy D. Wade. He's present in court, seated in
12 the gallery.

13 THE COURT: Good morning, Mr. Wilcox.
14 Good morning, Mr. Wade.

15 So, Mr. Wilcox, we're here for a report re: counsel
16 and arraignment. What's the status of your representation for
17 Mr. Wade?

18 MR. WILCOX: Your Honor, we have not yet filed a
19 permanent appearance, but we can do so by the end of business
20 today.

21 THE COURT: Okay. All right. But you plan on filing
22 the permanent appearance?

23 MR. WILCOX: Absolutely.

24 THE COURT: Okay. Then what I'd like to do --
25 Ms. Shick, Mr. Snider had indicated at the time of Mr. Wade's

1 initial appearance the Government would be moving for a Garcia
2 hearing if Mr. Wilcox was going to represent both Mr. Wade and
3 Mrs. Wade. Is that still the Government's position?

4 MS. SHICK: Yes, Your Honor. And to that point,
5 Mr. Snider had planned to be here today, but he was detained
6 in Texas and his flight got canceled. So he's currently
7 either on the plane or about to board another plane.

8 He had asked, with the Court's permission -- I had
9 spoken to Mr. Wilcox about it, but he objected. I'm not sure
10 why -- but he wanted to continue the Garcia hearing until
11 tomorrow only because he has the most information about any
12 potential or actual conflict that might exist between the
13 parties. I have some information from what I was able to get
14 from him this morning, but I didn't know he wasn't going to be
15 appearing until, again, an hour ago.

16 THE COURT: Sure.

17 MS. SHICK: So that was his request, that if we're
18 going to move forward with a permanent appearance by
19 Mr. Wilcox that we continue the Garcia hearing by one day.

20 THE COURT: Okay.

21 And, Mr. Wilcox, what's your position on --

22 MR. WILCOX: Well, let me first tell you why we
23 didn't want a continuance to tomorrow, because my clients
24 would like to get it done today.

25 THE COURT: Sure.

1 MR. WILCOX: That's the only reason.

2 With respect to -- did she mention anything about an
3 independent counsel advising Mr. Wade because we're -- I don't
4 see the necessity --

5 MS. SHICK: I haven't mentioned it yet, Your Honor.
6 I mean, that was Mr. Snider's request because -- and I do have
7 a case to hand up to Your Honor that Judge Goodman had done a
8 very detailed colloquy between a husband and wife on a Garcia
9 hearing. And even in that case where there was no actual
10 conflict, the individuals had independent counsel to advise
11 them of a potential conflict.

12 So the Government certainly doesn't object to joint
13 representation. The objection is, if they're going to do it,
14 he really needs to understand what it is that he's waiving.
15 And my understanding is that Ms. Wade already went to trial.
16 He testified in her favor --

17 THE COURT: Right.

18 MS. SHICK: -- so, at best, he's a witness in her
19 favor and now he's an indicted coconspirator. So clearly that
20 changes the name of the game here. And he needs to be aware
21 that throughout the course of the trial certainly conflicts
22 can come up. If there's going to be a "he said, she said," if
23 it's going to be "I'm going to blame you and you're going to
24 blame me," I mean, I don't know how a counsel jointly could
25 represent both parties in that instance.

1 In Goodman's case, which I have here -- and I'll just
2 cite just for the record, and I can hand it up to the Court.
3 It's United States versus Robaina, R-O-B-A-I-N-A. It's 2013,
4 WL 3243368.

5

6 MR. WILCOX: Excuse me.

7 MS. SHICK: Yeah.

8 MR. WILCOX: Is it a published opinion?

9 MS. SHICK: It's a nonreported --

10 MR. WILCOX: Okay.

11 MS. SHICK: -- but it was Judge Goodman's. It was
12 really just more of a guide for Judge Strauss if he wanted to
13 see how that was handled and --

14 THE COURT: Certainly the colloquy, I think -- the
15 Garcia hearing colloquy certainly requires that the Court
16 offer the defendants independent counsel to advise them on the
17 issue and for exactly the reasons the Government's mentioning.
18 Is it your position, Ms. Shick, that offering that is
19 insufficient and the Court actually has to appoint counsel for
20 them, or is it enough to simply advise them that independent
21 counsel is available should they want to consult with
22 independent counsel?

23 MS. SHICK: I think it's the latter, Judge. I don't
24 think there's any actual requirement. I think it's up to the
25 parties. But I think Mr. Snider's position was he was very

1 uncomfortable given the fact that Mr. Wade was a witness in
2 favor of his wife at the prior trial. He intimated to me that
3 he believed there might be an actual conflict that exists,
4 which didn't exist in the other case in front of Judge
5 Goodman, although Judge Goodman did go through all the
6 hypotheticals of potentially what could happen. So whether
7 there was an actual conflict or not, I think that's something,
8 again, that Mr. Snider can speak more intelligently about
9 that.

10 THE COURT: Right.

11 MS. SHICK: I wasn't at the trial, so I don't know.

12 THE COURT: The -- I guess what I'm wondering is my
13 impression was that at least for most of the Garcia hearing
14 the Government is excused while the Court colloquies the
15 defendant.

16 So is there -- how does that affect whether we need
17 to wait for Mr. Snider to be able to appear?

18 MS. SHICK: I -- Your Honor, I confess it's been a
19 long time since I've done a Garcia hearing.

20 THE COURT: Me too. That's why I'm asking.

21 MS. SHICK: It was about -- maybe over a decade ago.
22 I don't remember if I was present or not. And Your Honor
23 might be right. And if that's the case, then I would have to,
24 I think, in all good conscience withdraw the objection because
25 if we're not even going to be here, then what is the point?

1 I think Mr. Snider just really wanted to make sure
2 there was a very good record of a colloquy, and that was what
3 he was concerned about. I mean, obviously we don't have any
4 stake in it, one way or the other. But I think in the sense
5 that if it goes forward and problems arise later -- you know,
6 Judge Goodman had pointed out what if one defendant decides to
7 testify and the other doesn't? Even though the jury is not
8 supposed to hold that against them, they might. And you
9 have -- to the same lawyer. They're wondering why is one
10 testifying and why is one not.

11 So I think because it was wrought with so many
12 potential problems that he just wanted to make sure that he
13 would be here to answer Your Honor's questions if you had any.
14 Now, if we're not required to be here, then I don't think I
15 can stay when I don't think I can take that position. But if
16 we're allowed to be here, I think that that was why he wanted
17 to be present in case something would come up, if Your Honor
18 had a question about the prior testimony or any testimony,
19 that he'd able to add that.

20 And the other thing, the reason being is that I
21 didn't see any prejudice, since they're both out on bond, to
22 continuing on Monday.

23 THE COURT: I guess the prejudice -- what is the
24 prejudice, Mr. Wilcox?

25 MR. WILCOX: No. I just said the only reason that we

1 didn't want to hold it over for another day for Mr. Snider is
2 that my client didn't want to have to come back to court.

3 THE COURT: They've already come here --

4 MR. WILCOX: Yeah, and are here today, and they would
5 like to resolve it today.

6 Let me say this, Your Honor. As far as making the
7 Court aware of the potential conflict and whether or not
8 AUSA Snider can be here during that colloquy, certainly the
9 Government can submit something in writing proffering what the
10 conflict -- potential conflict may be.

11 THE COURT: Well, I understand that. I guess the
12 issue is that -- the whole point of the Garcia hearing is for
13 the Court to be satisfied that if the defendants are both --
14 both want to go forward with joint representation -- dual
15 representation, I should say, that they're both making a fully
16 informed decision and that -- and the -- I think what
17 Ms. Shick is saying is that in order for the Court to really
18 have that thorough conversation with the defendants, I need to
19 know, as best as I can, what that conflict is.

20 I certainly reviewed the docket beforehand. I
21 certainly saw that Mr. Wade had testified at Ms. Wade's first
22 trial, which I think creates the obvious potential for a
23 conflict that Ms. Shick has raised. I don't know if there's
24 something else evidentiary -- I don't know what the content of
25 his testimony was, if it was a -- and this is completely

1 hypothetical. I don't know if it was "I did everything. She
2 had nothing to do with it," which would obviously create
3 potentially something of a bigger conflict than a "neither of
4 us had anything to do with it," something of that nature.

5 And so I guess it's that the input from Mr. Snider
6 could be helpful. I guess what we could do is this --
7 because, candidly, I communicated with Judge Williams about
8 whether we should go forward with the Garcia hearing if you
9 did enter a permanent appearance, and she asked me to do that
10 because she wants to get this case moving.

11 And so what I think I'd like to do is this. First of
12 all, I'm going to take another case before we do any of the
13 Garcia hearing. What I'll do is I'm going to conduct a
14 colloquy with Mr. -- Ms. Wade is here also; is that correct?

15 MR. WILCOX: That's correct, Your Honor.

16 THE COURT: I'm going to pass their case for a
17 moment. I'm going to conduct the colloquy, have the Garcia
18 hearing with both of them, based on what my understanding of
19 what the potential conflict is. If -- Ms. Shick -- I'm going
20 to hold off on making a finding and submitting a -- or issuing
21 an order on it. If Mr. Snider wants to submit additional
22 information that I not might be aware of that gives me pause
23 to think, you know what, there's something else we really
24 didn't explore that needs to get done, then -- then perhaps we
25 need to bring them back in. If that's not the case, then I

1 think I can issue an order without bringing them back in.

2 How does that sound to both of you?

3 Ms. Shick, does that make sense to you?

4 MS. SHICK: It makes sense. The only thing that I
5 would be concerned about is I won't be here. So would he have
6 access to -- if we wanted to get it transcribed before he --
7 because I guess, otherwise, he could just independently, I
8 guess, write to Your Honor about what he sees as a potential
9 conflict --

10 THE COURT: Right. What I would envision is that if
11 Mr. Snider wants to write a more formal motion where he
12 explains what his concerns are and if when I see that I say,
13 "Wait a minute. That's something that I haven't thought of
14 that I think is a particular problem, that really needs to be
15 addressed" -- you know, obviously, he will not have a
16 transcript. That's the whole point --

17 MS. SHICK: Right.

18 THE COURT: -- of excusing the Government. So I
19 think if he raises something that to me creates a -- you know,
20 a real glaring hole that I think, you know what, we really do
21 need to address that a little further, then it may be cause to
22 bring -- to bring in another hearing.

23 Obviously, I think, Mr. Wilcox, that's not -- if the
24 alternative was if the Government filed a motion and we had to
25 set another hearing some other time, then they'd end up having

1 to come back anyway. At least what I'm proposing, we can try
2 to get done as much as we can with them both here. And if we
3 feel like it's fulsome enough, then -- then we can move
4 forward without them having to come back.

5 Does that make sense?

6 MR. WILCOX: Yes, Your Honor.

7 MS. SHICK: Yes, Your Honor.

8 THE COURT: Okay. So what I'm going to do is we're
9 going to pass Mr. Wade and Ms. Wade because I also need to --
10 for Mrs. Wade, I think we also need to arraign her on the
11 superseding indictment, but we're going to pass that for the
12 moment.

13 Let me take Mr. --

14 (Recess taken.)

15 THE COURT: Let me recall United States of America
16 versus Carolyn Denise Wade and Tracy D. Wade, Case
17 Number 23-60173.

18 And I think the way to proceed is this. Let me do
19 this. So -- and let me explain to them what's going on. All
20 right. So there are a couple of things that we intend to
21 accomplish here.

22 So, Mr. and Mrs. Wade, as I understand, you are
23 contemplating having dual or joint representation during your
24 case, meaning that you'd both be represented by the same
25 attorney or attorneys.

1 I need to address that issue with you because there
2 is at least the potential and perhaps even an actual conflict
3 of interest in having the same attorneys represent you. And
4 so we need to have a hearing for me to discuss that with you,
5 make sure you understand the consequences of your decisions
6 and the issue that that raises.

7 Assuming that -- we also at some point need to have
8 a -- assuming that counsel stays the same, we need to conduct
9 an arraignment on the superseding indictment actually for
10 both -- for both Mr. and Mrs. Wade. So what I would like to
11 do is, the Government is making a motion asking for the Garcia
12 hearing.

13 Ms. Shick, if you have anything further that you'd
14 like to state on the record as to what creates the actual
15 potential conflict, I'm certainly happy to hear that -- or
16 anything else you feel you need to put before the Court. Once
17 you've done that, I'll excuse the Government and I'll conduct
18 the Garcia colloquy with Mr. and Mrs. Wade. And then,
19 depending on how that turns out, I may ask you to come back in
20 and -- if we can proceed with our other proceedings.

21 Does that make sense, Ms. Shick?

22 MS. SHICK: Yes, Your Honor.

23 And I've spoken to AUSA Snider, who is still
24 currently stuck in Texas but should be leaving at some point
25 today --

1 THE COURT: Famous last words.

2 MS. SHICK: Yes, exactly.

3 THE COURT: We may never see him again.

4 MS. SHICK: I did convey Your Honor's suggestion to
5 allow him to supplement the record before any final decision
6 is made, and he was very amenable to doing that. The only
7 thing I can say, in the notes that he sent me, he had
8 expressed that during the testimony there was some inclination
9 that -- he was not admitting guilt but that there was some --
10 there was some testimony about him taking more of the
11 responsibility and alleviating responsibility on his wife.

12 I can't go as far as to say that he actually stated,
13 "I did this; she did nothing," but that was sort of the
14 implication that I was getting. But Mr. Wilcox, who was there
15 at the trial, indicated that that was not the case. So I'm
16 not the best person to talk about it, so that's why I had
17 suggested that Mr. Snider be able to address the Court about
18 that when the time comes.

19 As far as conducting the hearing, obviously, I'll be
20 excused, but I think because AUSA Snider has indicated his
21 desire to address the Court in a motion -- some written
22 supplement -- that if the Court could wait until making a
23 final decision and then thereby we can conclude the other
24 proceedings, like arraignment and that --

25 THE COURT: Did Mr. Snider indicate when he -- when

1 he thinks he would be able to make such a filing?

2 MS. SHICK: So he didn't, but I told him I would try
3 to get him as much time as possible but understanding that
4 this is something that Your Honor and Judge Williams want to
5 expedite, not have linger forever. I kind of intimated that
6 it would be something soon, like this week --

7 THE COURT: Sure.

8 MS. SHICK: -- but hopefully he'll get back and be
9 able to do that today.

10 THE COURT: Okay. So what I'm going to ask is I'll
11 give Mr. Snider until the end of Wednesday --

12 MS. SHICK: Okay.

13 THE COURT: -- to file any either motion or further
14 proffer, whatever form he thinks is necessary to do that. I
15 will certainly not make any findings before then, and I'll
16 consider that before we make any further order or report and
17 recommendation for Judge Williams to consider.

18 MS. SHICK: Thank you, Your Honor.

19 THE COURT: All right. So that being said, I'm going
20 to excuse the Government now.

21 So if Ms. Shick and any other representatives of the
22 United States or US Attorney's Office -- if you could please
23 leave the courtroom, and we'll let you know when you're
24 allowed back in.

25 Mr. Wilcox, does anyone else need to be excused

1 from --

2 MR. WILCOX: I'm looking, Your Honor.

3 Your Honor, now, I know that you excused the
4 Government, but does that mean the --

5 THE COURT: I'm sorry. Hold on one second,
6 Mr. Wilcox.

7 Actually, if I could ask -- you know, I'm sorry for
8 anyone else who's waiting but if -- I do need to -- I think I
9 do need to clear the courtroom in order to do this.

10 So anyone for our remaining case, if you could please
11 leave -- and are not here with Mr. and Mrs. Wade, if you could
12 please leave the courtroom so that we can --

13 MR. WILCOX: Your Honor, the gentleman in the white
14 shirt is my legal assistant.

15 THE COURT: Okay.

16 MR. WILCOX: Okay.

17 THE COURT: And I will say for court personnel, if
18 there are court interns that are present, you can certainly
19 stay.

20 Mr. Wilcox, I assume that's okay with you if any
21 court personnel or interns or law clerks stay?

22 MR. WILCOX: That's fine, Your Honor.

23 THE COURT: Thank you.

24 Mr. Wallace -- I'm sorry. Mr. Wilcox, I would like
25 Mr. Wallace with the Public Defender's Office to stay because

1 he would be the independent counsel that I would appoint
2 should either --

3 MR. WILCOX: Certainly, Your Honor.

4 THE COURT: You're okay with that?

5 MR. WILCOX: Certainly.

6 THE COURT: Okay. Thank you.

7 All right. So --

8 MR. WILCOX: Your Honor, I wanted to ask -- are we
9 going to seal the transcript here or --

10 THE COURT: I think that's -- yes, I think that's how
11 it would proceed. Is that your experience, Mr. Wilcox?

12 MR. WILCOX: No, I'm just making -- if we're excusing
13 the Government, it doesn't make sense if we don't also seal
14 the transcript.

15 THE COURT: Right. And I will order that from this
16 point to the conclusion of our colloquy the hearing should be
17 sealed in order to protect the attorney-client privilege of
18 both Mr. and Mrs. Wade.

19 All right. So, as I said before, Mr. Wade and
20 Mrs. Wade -- I'm sorry.

21 Ms. Wade, would you prefer me to use Ms. or Mrs.? Do
22 you have a preference?

23 MS. WADE: No, Your Honor.

24 THE COURT: Okay. I'll try to articulate as best as
25 I can because I want to make sure you each understand who I'm

1 speaking to.

2 As I said before, I understand that you are
3 contemplating joint representation in this case. In other
4 words, having the same attorney or attorneys representing both
5 of you.

6 Mr. Wilcox is already representing Ms. Wade, and he's
7 proposing to enter a permanent appearance to represent
8 Mr. Wade as well.

9 MR. WILCOX: If I could just interject, Your Honor.

10 THE COURT: Yes.

11 MR. WILCOX: It would not only be myself but it would
12 also be attorney Johnny McCray, Jr.

13 THE COURT: Yes. And I was going to get to that.
14 Thank you, Mr. Wilcox.

15 So I'm talking to you both about -- Mr. Wilcox and
16 Johnny McCray, Jr., are currently representing Ms. Wade.
17 They're proposing to enter a permanent appearance to represent
18 Mr. Wade as well.

19 Your choice of counsel to represent you is very, very
20 important for both of you. The Government is charging you
21 here with some serious offenses. They carry some serious
22 potential consequences if you are convicted.

23 And your lawyer is the only person who is going to be
24 standing shoulder to shoulder with you at a trial. And so
25 it's incredibly important that that person have your best

1 interest at heart. This hearing is about you making that
2 choice of who your counsel is going to be and being fully
3 aware of the circumstances and the consequences of that
4 choice.

5 As I said, the choice of counsel is one of the most
6 important decisions that you have in your case, and it's one
7 that you want to get right. Our system wants you to make an
8 informed decision about that choice. If you make a poor but
9 informed decision, you're the one that has to live with the
10 consequences. And it's my job to make sure you are making a
11 fully informed choice.

12 Although the Court recognizes that you have an
13 interest in having counsel of your choice, that choice is not
14 an absolute choice. And the orderly administration of justice
15 can overcome your right to choose your counsel if there's
16 either an actual or even the showing of a serious potential
17 conflict of interest for your counsel. In other words, the
18 Court has an independent interest in ensuring that criminal
19 trials are conducted within ethical standards of the legal
20 profession and that legal proceedings appear fair to everyone
21 who observes them, thus maintaining public confidence in the
22 courts.

23 So I'm going to ask you some questions and also talk
24 to you about some of the possible disadvantages of joint
25 representation that you really should consider before making

1 this choice. If at any point you don't understand what I'm
2 saying, please let me know so I can rephrase it or try to
3 explain something better. Okay?

4 Also, if at any time you want to talk to your lawyer,
5 talk to Mr. Wilcox about a question, please do that. Do you
6 understand that, Ms. McCray -- excuse me -- Ms. Wade?

7 MS. WADE: Yes, Your Honor.

8 THE COURT: And, Mr. Wade, do you understand that as
9 well?

10 MR. WADE: Yes, Your Honor.

11 THE COURT: Also, I want both of you to understand
12 that at any time I can appoint an independent lawyer at no
13 cost to you to advise you during this hearing. Do you
14 understand that?

15 MS. WADE: Yes, Your Honor.

16 THE COURT: Ms. Wade, do you understand that?

17 MS. WADE: Yes, sir.

18 Mr. Wade, do you understand?

19 MR. WADE: Yes, sir.

20 THE COURT: Let me make it very clear. Mr. Wilcox is
21 a fine, excellent defense attorney. This is nothing about
22 Mr. Wilcox personally -- or Mr. McCray, for that matter.

23 The kinds of conflicts that I'm going to talk to you
24 about would arise regardless of who you're proposing would
25 represent the two of you together. And so while the Court has

1 the utmost faith in Mr. Wilcox and Mr. McCray in both their
2 skills and their ethics, there are certain conflicts that are
3 simply inherent in dual representation, and those are some of
4 the things I need to talk to you about today.

5 Do you understand that, Ms. Wade?

6 MS. WADE: Yes, sir.

7 THE COURT: Do you understand that, Mr. Wade?

8 MR. WADE: Yes, sir.

9 THE COURT: If you find you need more time to think
10 about this decision or to consult with another lawyer, whether
11 that's someone I appoint for you or someone that you want to
12 go and find and talk to or think about hiring yourself, we can
13 absolutely reschedule this hearing for another day.

14 Do you understand that, Ms. Wade?

15 MS. WADE: Yes, sir.

16 THE COURT: Mr. Wade, do you understand that?

17 MR. WADE: Yes, sir.

18 THE COURT: In other words, I know you've been
19 waiting patiently here. I know we were talking before about,
20 you know, could we do this today rather than have you come
21 back another day. I fully understand everyone's busy
22 schedules and not wanting to come back to court more than you
23 have to, but I need to emphasize again this is a really
24 important decision here, and I don't want either of you to
25 feel like you are rushed into making this decision. So the

1 Court is absolutely fine with giving you additional time if
2 you need to think about this decision or consult with another
3 lawyer.

4 Do you understand that, Ms. Wade?

5 MS. WADE: Yes, sir.

6 THE COURT: Do you understand that, Mr. Wade?

7 MR. WADE: Yes, sir.

8 THE COURT: I need to ask both of you a couple of
9 questions about your background to make sure that the Court
10 can be confident that you are making -- you're able to make an
11 informed decision.

12 So first, I need to put both of you under oath. Can
13 you both raise your right hand.

14 (Defendant, TRACY D. WADE, duly sworn.)

15 (Defendant, CAROLYN DENISE WADE, duly sworn.)

16 THE COURT: Okay. Put your hands down.

17 Ms. Wade, I'm going to address you first. How old
18 are you, ma'am?

19 MS. WADE: 49.

20 THE COURT: Okay. How far did you go in school?

21 MS. WADE: High school diploma.

22 THE COURT: Are you able to read and understand
23 English fluently?

24 MS. WADE: Yes, sir.

25 THE COURT: Have you ever been treated for any mental

1 illness or addiction to any controlled substance?

2 MS. WADE: No, sir.

3 THE COURT: Are you under the influence of any drugs
4 or alcohol right now?

5 MS. WADE: No, sir.

6 THE COURT: Have you taken any medication whatsoever,
7 whether that's prescription or over the counter, within the
8 last 24 hours?

9 MS. WADE: No, sir.

10 THE COURT: Do you feel like you understand what's
11 happening today?

12 MS. WADE: Yes, sir.

13 THE COURT: Anything affecting your ability to either
14 understand my questions or the proceedings or what's going on
15 here today?

16 MS. WADE: No, sir.

17 THE COURT: Do you feel that you are thinking clearly
18 and able to make a serious and consequential choice today?

19 MS. WADE: Yes, sir.

20 THE COURT: All right. Mr. Wilcox, do you have any
21 reason to doubt Ms. McCray -- I keep saying McCray. I'm sorry
22 about that -- Ms. Wade's competency or ability to make a fully
23 informed decision today?

24 MR. WILCOX: No, I do not, Your Honor.

25 THE COURT: Okay.

1 Mr. Wade, I'm going to ask you the same questions.
2 How old are you, sir?

3 MR. WADE: 51.

4 THE COURT: How far did you go in school, sir?

5 MR. WADE: Associate's in college.

6 THE COURT: Okay. Are you able to speak and
7 understand and read English fluently?

8 MR. WADE: Yes, sir.

9 THE COURT: Have you ever been treated for any mental
10 illness or addiction to any controlled substances?

11 MR. WADE: No, sir.

12 THE COURT: Are you the under the influence of any
13 drugs or alcohol right now?

14 MR. WADE: No, sir.

15 THE COURT: Have you taken any medication whatsoever
16 today, either prescription or over the counter, within the
17 last 24 hours?

18 MR. WADE: Yes, sir.

19 THE COURT: Okay. What sort of medication was that?

20 MR. WADE: Cholesterol and blood pressure.

21 THE COURT: Does that affect your ability to think
22 clearly in any way?

23 MR. WADE: No, sir.

24 THE COURT: Do you feel like you are able to think
25 clearly here today?

1 MR. WADE: Yes, sir.

2 THE COURT: Do you understand what is happening here
3 today?

4 MR. WADE: Yes, sir.

5 THE COURT: Is anything affecting your ability to
6 understand what's going on, to think clearly, or to make a
7 consequential decision here today?

8 MR. WADE: No, sir.

9 THE COURT: And, Mr. Wilcox, again, do you have any
10 questions or doubts about Mr. McCray's ability --

11 MR. WILCOX: Mr. Wade's.

12 THE COURT: God, I keep doing that. I'm so sorry --
13 Mr. Wade's competency to make an informed decision here today?

14 MR. WILCOX: No, I do not, Your Honor.

15 THE COURT: All right. I do find that each defendant
16 is fully competent and capable of making an important
17 decision, and therefore we will proceed with our colloquy.

18 Now, as I said before, you're each facing some very
19 serious charges. Those charges include conspiracy to commit
20 wire fraud, wire fraud, conspiracy to make false statements to
21 the Small Business Administration, and making a false
22 statement to the Small Business Administration.

23 These are felony offenses. If convicted, you could
24 be sentenced up to a maximum of 20 years in prison for
25 conspiracy to commit wire fraud, 20 years in prison for wire

1 fraud, five years in prison for conspiracy to make false
2 statements to the Small Business Administration, and two years
3 in prison for each count of false statement to the Small
4 Business Administration.

5 Do you understand that, Ms. Wade?

6 MS. WADE: Yes, Your Honor.

7 THE COURT: Do you understand that, Mr. Wade?

8 MR. WADE: Yes, sir.

9 THE COURT: Under the United States Constitution, you
10 each have the absolute right to effective assistance of
11 counsel. When one lawyer represents two or more defendants in
12 the same case, it can create a conflict of interest that
13 denies you your right to effective assistance of counsel.
14 That's because the lawyer may have trouble representing all
15 defendants with the same fairness.

16 Such conflicts are always a potential problem because
17 different defendants may have different degrees of involvement
18 or may want to pursue different strategies at trial or at
19 sentencing. Each of you has the right to a lawyer who
20 represents you and only you, a lawyer who has only your best
21 interests in mind.

22 Do you understand that, Ms. Wade?

23 MS. WADE: Yes, Your Honor.

24 THE COURT: And do you understand that, Mr. Wade?

25 MR. WADE: Yes, Your Honor.

1 THE COURT: So let me talk to you about some of the
2 ways in which a conflict could arise in your case.

3 First, your lawyer could be inhibited from conducting
4 an independent investigation. He may learn something from a
5 confidential interview of one of you that would help the other
6 one of you, but he can't use it because he owes an
7 attorney-client privilege to each of you. In other words,
8 something he learns from one of you, he can't use to help the
9 other because he's learned of it in confidence.

10 Second, the Government may offer some type of
11 immunity or lesser sentence to one of you for cooperating with
12 them against others, including potentially the other one of
13 you.

14 Your lawyer ought to advise you about the wisdom of
15 accepting or rejecting that offer, but a lawyer representing
16 both of you can't really do that since it would hurt the other
17 client. In other words, if one of you doing one action would
18 hurt the other, he can't both advise you -- you know, if
19 something is in, say, Ms. Wade's interest but it would hurt
20 Mr. Wade, he can't both fully protect Mr. Wade's interests
21 while fully advising Ms. Wade what's the best thing to do in
22 her interest.

23 Do you understand that, Ms. Wade?

24 MS. WADE: Yes, Your Honor.

25 THE COURT: Mr. Wade, do you understand that?

1 MR. WADE: Yes, sir.

2 THE COURT: Dual representation can also affect your
3 lawyer's ability to negotiate a plea. Plea negotiations are
4 different and even more difficult when negotiating for more
5 than one person's interest.

6 Let me give you an example. One thing you may have
7 talked about with your attorney is the sentencing guidelines
8 that might affect what kind of sentence might get imposed if
9 you are convicted in the case. And perhaps one of you wants
10 to argue to the Government that you should get a reduction in
11 sentence for having a minor role. That may require you to
12 argue to the Government that you were less culpable than
13 another defendant, including the other one of you, but your
14 lawyer can't make that argument to the Government or negotiate
15 that deal with the Government without implicitly harming,
16 potentially, the other person in their negotiations with the
17 Government.

18 In other words, when -- in trying to get one of you
19 the best deal that they could, your lawyer may not be able to
20 represent the other person's best interests in full.

21 Do you understand that, Ms. McCray?

22 MS. WADE: Yes, Your Honor -- Wade.

23 THE COURT: Ms. Wade.

24 Do you understand that, Mr. Wade?

25 MR. WADE: Yes, sir.

1 THE COURT: Dual representation could also be a
2 problem in jury selection. Let's say there may be jurors that
3 may appear more favorable to, say, Ms. Wade and more harmful
4 to Mr. Wade, or vice versa.

5 So there could be jurors that Ms. Wade wants to keep
6 on the jury but that Mr. Wade would be better off trying to
7 strike. Or, again, vice versa, maybe there are people that
8 Mr. Wade wants to strike and Ms. Wade wants to keep. It's
9 hard to come up with every possible scenario, but you're a
10 husband and wife.

11 Let's say there could be -- you know, one attorney
12 might think, you know what, for -- it helps Ms. Wade to have
13 as many wives and mothers on the jury as possible because
14 they're going to be sympathetic to her or, you know, maybe
15 there are women who have been mistreated by their husbands or
16 tricked into something -- and again, Mr. Wade, I'm not
17 suggesting you did any of that. I'm just saying hypothetical
18 scenarios. And that kind of person might be really
19 sympathetic to Ms. Wade but less sympathetic to Mr. Wade.

20 Your attorney can't both try to keep those people for
21 Ms. Wade and strike them for Mr. Wade and pursue both of your
22 interests fully.

23 Do you understand what I'm explaining, Ms. Wade?

24 MS. WADE: Yes, sir.

25 THE COURT: Mr. Wade, do you understand?

1 MR. WADE: Yes, sir.

2 THE COURT: Similarly, there may be different
3 strategies that would benefit each of you at trial that your
4 attorney can't pursue at the same time. One big one that you
5 heard the Government talking about -- and is one I really need
6 to talk to you about -- is the decision about testifying in
7 your own defense. You both have the absolute right to choose
8 not to testify at your trial. You also have the absolute
9 right to choose to testify if you want to, and that's often
10 one of the biggest decisions that a defendant has to make in a
11 case. And, you know, Mr. Wilcox will tell you there are a lot
12 of things that go into that decision, pro and con, one way or
13 the other.

14 If one of you chooses to testify, your lawyer should
15 question each witness as thoroughly and completely as possible
16 in order to fully and fairly represent you, but that would
17 lead to a situation where -- and I'm just going to take the
18 example because I know, Mr. Wade, you testified at Ms. Wade's
19 first trial. So if Mr. Wade is testifying, Mr. Wilcox and
20 Mr. McCray have the obligation to question you as thoroughly
21 as possible in Ms. Wade's interest, but they can't necessarily
22 do that because, one, that may implicate things that Mr. Wade
23 has told them in confidence, again, within that
24 attorney-client relationship, or it might -- they can't pursue
25 something that's going to hurt Mr. Wade in order to help

1 Ms. Wade, and vice versa.

2 Do you understand what I'm saying, Ms. Wade?

3 MS. WADE: Yes, Your Honor.

4 THE COURT: Mr. Wade, do you understand what I'm
5 saying?

6 MR. WADE: Yes, sir.

7 THE COURT: Similarly, even if the decision -- if
8 testifying may help your case but hurt the other defendant's
9 case, your lawyer may have a difficult time advising you
10 whether you may wish to testify. Again, for example,
11 Mr. Wade, again, you testified at Ms. Wade's first trial.
12 That ended in a mistrial. I'm not sure whether -- that was
13 because of a hung jury, I'm assuming, or --

14 MR. WILCOX: Hung jury, yes.

15 THE COURT: Oh, it was a hung jury, Mr. Wilcox.
16 Thank you.

17 So, Mr. Wade, your testimony may have been beneficial
18 to Ms. Wade to -- I believe you were called by the defense.
19 It may have helped her defense. At a trial where you are also
20 a defendant, it may not be in your interest to testify where
21 you are going to be cross-examined by the Government. That
22 may especially be true if there's the risk that you say
23 something slightly differently at a second trial than you did
24 at the first trial. That comes with some real risks to you.
25 But a lawyer who is representing both of you may have a

1 difficult time telling you "don't testify" when he knows that
2 your testimony might help Ms. Wade.

3 Do you understand that?

4 MR. WADE: Yes, sir.

5 THE COURT: And, Ms. Wade, do you understand that as
6 well? The same thing goes for you. If you -- you know, your
7 lawyer may need to discourage Mr. Wade from testifying again
8 even though that's not necessarily in your best interest. Do
9 you understand that?

10 MS. WADE: Yes, sir.

11 THE COURT: Similarly, the Government alluded to this
12 before. The Court absolutely instructs and will absolutely
13 instruct at your trial that if either of you chooses not to
14 testify, that fact cannot be held against you, and the jury
15 will be instructed that way. But if one of you testifies and
16 the other one doesn't, the jury may wonder why that's
17 happening or they may hear only one side of the story and not
18 yours. A lawyer who's representing both of you can't
19 necessarily help each of you navigate that decision as well as
20 if you had an independent attorney advising you. Do you
21 understand that, Ms. Wade?

22 MS. WADE: Yes, sir.

23 THE COURT: And do you understand that, Mr. Wade?

24 MR. WADE: Yes, sir.

25 THE COURT: As I alluded to you before, if your case

1 gets to a sentencing, if you are convicted or if you plead
2 guilty and you get to a sentencing, the problems potentially
3 continue. For example, like I said before, a frequent
4 strategy at -- I'm sorry. I skipped something. Let's hold
5 off on getting to sentencing. Let's go back to talking about
6 what strategy to pursue at trial because it's not just about
7 whether one of you is going to testify or not but, again,
8 there may be differences in strategy or about how to assess
9 particular pieces of evidence.

10 For example, typically or frequently -- I should say
11 frequently in a multi-defendant trial, one strategy is for one
12 defendant to blame the other defendants or to say that they
13 may be guilty but I'm not or I'm less culpable than what the
14 others did. But a lawyer representing both of you can't
15 really make that argument because Mr. Wade's attorney can't be
16 arguing, "Well, Ms. Wade may be guilty but I'm not" because he
17 also owes a duty to Ms. Wade and vice versa.

18 Similarly, if there's a piece of evidence that maybe
19 helps one of you but hurts the other of you, your lawyer has
20 to decide do I object to that piece of evidence and try to
21 keep it out to help Ms. Wade, do I not object to it and let it
22 in to help Mr. Wade, or even do I emphasize it later in an
23 argument or do I de-emphasize it? Again, those are places
24 where your interests don't necessarily align, and having an
25 independent attorney looking out for your interests might be

1 better for you.

2 Do you understand that, Ms. Wade?

3 MS. WADE: Yes, Your Honor.

4 THE COURT: Do you understand that, Mr. Wade?

5 MR. WADE: Yes, sir.

6 THE COURT: Okay. I had started talking about
7 sentencing before. Let me turn back to that.

8 Again, a lot of times what happens in a case if you
9 get to sentencing with multiple defendants is that at
10 sentencing your attorney wants to argue, "I'm less culpable
11 than some of the other people. I played a minor role and
12 shouldn't get as harsh of a sentence," or, you know,
13 comparatively you're less at fault. But with dual
14 representation, that makes that argument virtually impossible
15 because, again, just as with many of the other things that
16 we've been discussing, your attorney can't harm one of you in
17 order to help the other. Or if he does, then one of you is
18 not getting the benefit of an attorney fully representing your
19 interest.

20 Do you understand that, Ms. Wade?

21 MS. WADE: Yes, Your Honor.

22 THE COURT: Do you understand that, Mr. Wade?

23 MR. WADE: Yes, sir.

24 THE COURT: All right. Ms. Wade, do you understand
25 each of these potential conflicts that I've explained to you?

1 MS. WADE: I do, Your Honor.

2 THE COURT: Do you have any questions about any of
3 them that you want to ask me?

4 MS. WADE: No, Your Honor.

5 THE COURT: Mr. Wade, do you understand each of these
6 potential conflicts that I've explained to you?

7 MR. WADE: Yes, sir.

8 THE COURT: Do you have any questions that you want
9 to ask me about?

10 MR. WADE: No, sir.

11 THE COURT: All right. Mr. Wilcox, can you explain
12 to me how you can assure the Court that there will be no
13 conflict that will result in a lack of effective assistance or
14 result in any other prejudice to either Mr. or Ms. Wade?

15 MR. WILCOX: Your Honor, could you repeat that again
16 for me?

17 THE COURT: Sure.

18 How can you assure the Court that there will be no
19 conflict here that will lead to a lack of effective assistance
20 of counsel in the case?

21 MR. WILCOX: Your Honor, because I was present at
22 Ms. Wade's first trial that resulted in a mistrial, our
23 defense primarily is based on a third party who incidentally
24 is going to be arraigned or have her initial appearance today.

25 THE COURT: Yes.

1 MR. WILCOX: And it is not a situation where the
2 defendants are pointing fingers at each other.

3 THE COURT: Well, I understand that is the current
4 intention, Mr. Wilcox, but I mean, you know better than anyone
5 that things can evolve, testimony can change, maybe
6 consideration of evidence --

7 MR. WILCOX: What I can say, Your Honor, is if things
8 do change, if circumstances do change and I see that there's
9 an unavoidable conflict, I certainly will make that known to
10 the Court and would ask that -- and either have one of them
11 retain separate counsel or ask the Court to appoint the
12 federal public defender.

13 THE COURT: Okay. Is the evidence the same against
14 both Mr. and Ms. Wade?

15 MR. WILCOX: I believe there's a separate loan that's
16 charged in the indictment with respect to Mr. Wade.

17 THE COURT: Okay. In terms of who identifies them as
18 being involved or communications, you know, between -- alleged
19 communications between them and the witnesses, is that --

20 MR. WILCOX: I'm not sure I followed you with that.

21 THE COURT: I guess what I'm asking is, as you
22 understand the evidence, was the communication between them --
23 the alleged communication between them and third parties or
24 alleged communication between them and the Small Business
25 Administration -- was that all with one of them? Was it with

1 both of them? How does the evidence compare there?

2 MR. WILCOX: Your Honor, both of them had
3 communication with the Small Business Administration or the
4 agency or -- I believe there was a -- there's an entity, I
5 think is the best word, that was facilitating their loan on
6 behalf of the Small Business Administration, and both of them
7 had had communication with that entity.

8 THE COURT: What about -- as I understand it, I think
9 there's someone who's alleged to have assisted them with
10 preparing the loans.

11 MR. WILCOX: That's correct. And that person is
12 going to be appearing before the Court shortly.

13 THE COURT: And was the communication with that
14 person -- was that all done with all three of them together or
15 was that person communicating with Ms. Wade or was that person
16 communicating with Mr. Wade?

17 MR. WILCOX: My best recollection from the evidence
18 introduced at the last trial was that she had -- this third
19 person did not communicate with both of them simultaneously at
20 any time.

21 THE COURT: Okay. So is there a possibility, though,
22 that -- you know, that something that this third party said
23 to, hypothetically, Ms. Wade but not Mr. Wade could create --

24 MR. WILCOX: Or vice versa.

25 THE COURT: -- or vice versa -- could create a

1 conflict of, well, she might have known about it but he
2 didn't, or he might have known that but she didn't? Doesn't
3 that present that possibility --

4 MR. WILCOX: Yes, it does, Your Honor. And quite
5 frankly, I can't parse that out right now. I mean, I don't --

6 THE COURT: Okay.

7 MR. WILCOX: -- have that strong of a recollection of
8 what occurred in the previous trial. Quite candidly, Your
9 Honor, I filed a notice of appearance to assist Mr. McCray
10 sort of like at the eleventh hour, and so I -- my recollection
11 of the facts of the trial, as I've explained, that the person
12 that the defense was focusing on or saying that was
13 responsible for any wrongdoing is the person that -- is a
14 third party that will be appearing before the Court this
15 afternoon -- well, short -- yeah, this afternoon. Yes.

16 THE COURT: Without getting into -- let me ask this.
17 Are there any issues regarding marital privilege here, without
18 telling me about any specific statements --

19 MR. WILCOX: Your Honor, I just don't know. I mean,
20 that's the honest answer. I can't answer that question.

21 THE COURT: Right. Well, I guess that is the issue
22 of are there statements that one of your clients would have
23 made to the other that might be helpful but that can't be --
24 that one of your clients would prevent the other from
25 testifying about?

1 MR. WILCOX: Again, Your Honor, I can't say at this
2 time. In the last trial, Mr. Wade was not a defendant. He
3 did testify. My recollection of his testimony was that this
4 third party -- he knew the third party before Ms. Wade knew
5 the third party, and the third party got -- got involved with
6 Ms. Wade because of the third party's relationship with
7 Mr. Wade. And that's my best recollection, Your Honor.

8 THE COURT: Okay. Have you -- without getting into
9 any of the details of the discussions you've had, have you
10 fully discussed the ramifications of dual representation with
11 each of your clients?

12 MR. WILCOX: Mr. McCray has.

13 THE COURT: Mr. McCray has.

14 MR. WILCOX: Yes.

15 THE COURT: And based on those discussions, do you
16 believe that you've addressed some of the potential conflicts
17 here and understanding why they should or shouldn't be of
18 concern?

19 MR. WILCOX: Your Honor, I've also had conversations
20 with Mr. and Mrs. Wade also, and they do understand -- based
21 on my conversation with them, they do understand the potential
22 for conflict. And if any additional situation -- if the
23 circumstances change, if there's some new evidence or some new
24 circumstances when we can't avoid having a conflict, I can
25 always tell the Court that I will advise them that they should

1 probably have -- one of them should seek another counsel and,
2 if not, ask the Court to appoint the federal public defender
3 and that's about all I can say.

4 THE COURT: Let me ask this. Can you tell me how --
5 how are counsel's fees being paid?

6 MR. WILCOX: Excuse me?

7 THE COURT: How are the fees being paid? In other
8 words, I understand -- this is what I'm ultimately trying to
9 get at, and I want to address this with each of you too.

10 MR. WILCOX: My understanding is that they are
11 jointly paying Mr. McCray and I.

12 THE COURT: Okay. What I want -- what I want each of
13 you, Mr. Wade and Mrs. Wade, to understand, I understand
14 hiring an attorney is very expensive, and I can imagine as a
15 couple pooling your resources to pay for counsel seems like --
16 just like you pool your resources for probably a lot of things
17 in your lives to afford them, it seems like a good idea.

18 What I want each of you to understand, though, is
19 that if either of you wanted independent counsel and there's
20 not enough money between you to pay for two sets of attorneys
21 that the Court can appoint counsel for one of you free of
22 charge. Do you understand that, Ms. Wade?

23 MS. WADE: Yes, Your Honor.

24 THE COURT: Do you understand that, Mr. Wade?

25 MR. WADE: Absolutely, sir.

1 THE COURT: In other words, I want to make sure you
2 understand that if it's a matter of, you know, I really think
3 I should have someone else but we're already -- we're already
4 paying for Mr. Wilcox and Mr. McCray. We can't go out and pay
5 for someone else. I don't want to do that. I can't. So I'm
6 just going to -- we're just going to stick with what we've got
7 because we can't afford someone else, that that shouldn't be a
8 consideration because the Court can appoint someone else if
9 you wanted.

10 Do you understand that, Ms. Wade?

11 MS. WADE: Yes, Your Honor.

12 THE COURT: Do you understand that, Mr. Wade?

13 MR. WADE: Yes, sir.

14 THE COURT: Okay. All right. Mr. Wilcox, anything
15 else that you wanted to represent to the Court?

16 MR. WILCOX: No, Your Honor.

17 THE COURT: All right. Then what I'm going to do --
18 I'm now going to ask you, Ms. Wade, whether you're waiving
19 your right to separate counsel despite the potential conflicts
20 we've discussed, and then I'm going to ask the same questions
21 of Mr. Wade. Okay?

22 Ms. Wade, do you understand that you have the right
23 to your own counsel that represents you and only you? Do you
24 understand that?

25 MS. WADE: Yes, Your Honor.

1 THE COURT: Do you understand that if you could not
2 afford a separate attorney, I could appoint an attorney for
3 you at no cost?

4 MS. WADE: I understand, Your Honor.

5 THE COURT: Do you understand that if you waive the
6 potential conflicts we've discussed here today and waive your
7 right to your own separate counsel and if the Court accepts
8 your waiver, you will not be able to raise these conflicts on
9 appeal if the case does not turn out as well as you wish?

10 MS. WADE: I understand, Your Honor.

11 THE COURT: Do you have any questions about anything
12 that we've discussed here today?

13 MS. WADE: No, Your Honor.

14 THE COURT: Would you like the opportunity to consult
15 with an independent counsel appointed free of charge on this
16 important matter before making your decision?

17 MS. WADE: No, Your Honor.

18 THE COURT: Do you need any more time to think about
19 this decision?

20 MS. WADE: No, Your Honor.

21 THE COURT: Or do you want any time to speak to an
22 independent attorney before making this decision?

23 MS. WADE: No, Your Honor.

24 THE COURT: Do you want to proceed with Mr. Wilcox
25 and with Mr. McCray as your counsel knowing that they will

1 also represent Mr. Wade and that, as a result, conflicts
2 between you and Mr. Wade may occur?

3 MS. WADE: Yes, Your Honor.

4 THE COURT: Do you believe you're fully aware of the
5 potential conflicts that may occur?

6 MS. WADE: Yes, Your Honor.

7 THE COURT: Do you now waive any such conflicts of
8 interest?

9 MS. WADE: Yes, Your Honor.

10 THE COURT: Do you make this waiver freely and
11 voluntarily?

12 MS. WADE: Yes, Your Honor.

13 THE COURT: Has anybody promised you anything in
14 return for this waiver?

15 MS. WADE: No, Your Honor.

16 THE COURT: Has anybody threatened you in any way
17 either directly or indirectly to make you enter this waiver?

18 MS. WADE: No, Your Honor.

19 THE COURT: All right. Mr. Wade, I'm going to ask
20 you a similar set of questions now.

21 Do you understand that you have the right to your own
22 counsel that represents you and only you?

23 MR. WADE: Yes, sir.

24 THE COURT: Do you understand that if you could not
25 afford a separate attorney, I could appoint an attorney for

1 you at no cost?

2 MR. WADE: Yes, sir.

3 THE COURT: Do you understand that if you waive the
4 potential conflict we have discussed and waive your right to
5 your own separate counsel and if the Court accepts that
6 waiver, you will not be able to raise these conflicts on
7 appeal if the case does not turn out as well as you wish?

8 MR. WADE: Yes, sir.

9 THE COURT: Do you have any questions about anything
10 we've talked about here today?

11 MR. WADE: No, sir.

12 THE COURT: Would you like the opportunity to consult
13 with an independent counsel appointed free of charge on this
14 important matter before making your decision?

15 MR. WADE: No, sir.

16 THE COURT: Do you feel like you need more time to
17 think about your decision?

18 MR. WADE: No, sir.

19 THE COURT: Do you want to proceed with Mr. Wilcox
20 and Mr. McCray, knowing that they will represent Ms. Wade and
21 that, as a result, conflicts between and you Ms. Wade may
22 occur?

23 MR. WADE: Yes, sir.

24 THE COURT: Do you believe you're fully aware of the
25 potential conflicts that may occur?

1 MR. WADE: Yes, sir.

2 THE COURT: Do you waive any such conflicts of
3 interest?

4 MR. WADE: Yes, sir.

5 THE COURT: Do you make this waiver freely and
6 voluntarily?

7 MR. WADE: Yes, sir.

8 THE COURT: Has anybody promised you anything in
9 return for this waiver?

10 MR. WADE: No, sir.

11 THE COURT: Has anybody threatened you in any way
12 either directly or indirectly to enter into this waiver?

13 MR. WADE: No, sir.

14 THE COURT: I find based on the information presented
15 today that both Mr. Wade and Ms. Wade are fully informed and
16 competent to proceed. Understanding that conflicts may exist,
17 each wishes to have Mr. Wilcox and Mr. McCray represent them
18 as counsel of choice, and each is freely, knowingly, and
19 voluntarily waiving any conflicts. As I said earlier, I am
20 going to wait to see what else the Government wishes to
21 proffer to me later this week that may present another wrinkle
22 or issue that I haven't addressed with you that I may find is
23 necessary to address with you before I order that your waivers
24 be accepted.

25 If that happens, I'll ask you to come back so I can

1 discuss with you further. Otherwise, if I think we've fully
2 addressed all the issues that we need to, I will enter an
3 order that your waivers be accepted and that you be allowed to
4 proceed with Mr. Wilcox and Mr. McCray representing both of
5 you.

6 What I'd like to do is I'm going to call the
7 Government back in and we're going to proceed with an
8 arraignment for both of you on the superseding indictment that
9 needs to be on the record with the Government.

10 If for whatever reason we later determine that there
11 needs to be a further hearing, we can always -- and one of you
12 ends up getting other counsel, we can always redo the
13 arraignment at that point.

14 Does that make sense to you, Mr. Wilcox?

15 MR. WILCOX: Yes, Your Honor.

16 THE COURT: I'm going to -- you've both been very
17 patient. Thank you for your time. If you hold on one second,
18 I'm going to ask my courtroom deputy to invite everyone else
19 back in. We'll open the record back up and we can proceed
20 with our arraignments.

21 MS. WADE: Do we stay here?

22 THE COURT: Why don't you just stay right there.
23 Hold on a second.

24 Mr. and Mrs. Wade, Mr. Wilcox is going to give you an
25 affidavit to read over and sign. It discusses some of the

1 exact same things that we've just addressed. I want you to
2 read them very carefully. And if you're still in agreement
3 with them, sign them and hand them up. Okay?

4 (Recording ended.)

5
6 CERTIFICATE OF TRANSCRIBER

7 I certify that the foregoing is a correct transcript
8 of the record of proceedings in the above-entitled matter.
9 The transcript was prepared to the best of my ability from a
digital audio recording of the proceedings provided by the
Court.

10 DATE: 21st of May, 2025

/s/Lance W. Steinbeisser

11 Transcriber

12 United States District Court
13 Southern District of Florida
14 Miami, Florida
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