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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 746 (MKV)

5 ADEDAYO ILORI, CHRIS RECAMIER,

6 Defendants.

Conference

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7
8 New York, N.Y.
9 March 22, 2022
10 10:09 a.m.

11 Before:

12 HON. MARY KAY VYSKOCIL,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: DANIEL G. NESSIM, ESQ.
Assistant United States Attorney

18 BRILL LEGAL GROUP, P.C.

Attorneys for Defendant Adedayo Ilori

19 BY: PETER E. BRILL, ESQ.

20 LGR LAW, LLC

Attorneys for Defendant Chris Recamier

21 BY: LORRAINE GAULI-RUFO, ESQ.

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1 (Case called)

2 THE COURT: Please be seated, everyone.

3 THE DEPUTY CLERK: Counsel, starting with the
4 government, please state your name for the record.

5 MR. NESSIM: Good morning, your Honor. Daniel Nessim
6 for the government.

7 THE COURT: Good morning, Mr. Nessim.

8 MS. GAULI-RUFO: Good morning, your Honor. Lorraine
9 Gauli-Rufo on behalf of Chris Recamier, who is seated right
10 next to me, your Honor.

11 THE COURT: All right. Good morning, Ms. Gauli-Rufo.

12 MS. GAULI-RUFO: Thank you.

13 MR. BRILL: Good morning, your Honor. Peter Brill on
14 behalf of Mr. Ilori, who is present next to me.

15 THE COURT: All right. Good morning, Mr. Brill, and
16 good morning to the defendants as well.

17 And good morning to our court reporter. Thank you for
18 being here.

19 THE REPORTER: Good morning.

20 THE COURT: All right. So we're here this morning for
21 a status conference in this matter. I'll hear an update from
22 the government on where things are at.

23 MR. NESSIM: Yes, your Honor. The government has
24 produced discovery materials in our possession.

25 THE COURT: All materials? Like is discovery

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1 complete?

2 MR. NESSIM: It is complete, with the exception of --
3 there are still a number of devices that we have not accessed,
4 and there are also some electronic devices that are going to
5 continue to be identifying material pulled from, but the bulk
6 of the devices have been imaged and the bulk have also had the
7 responsive material identified, and there's also obviously the
8 chance of additional discovery entering the government's
9 possession, which we'll produce on a rolling basis.

10 THE COURT: When will you be complete?

11 MR. NESSIM: Your Honor, at this point we are complete
12 with what we have, and additional materials, it's difficult to
13 put a time line on them because we don't yet have access to
14 them or we haven't yet obtained them.

15 THE COURT: Okay. All right. Have the defendants
16 received the discovery and have counsel been able to review it
17 with your clients?

18 MS. GAULI-RUFO: Your Honor, my client, Mr. Recamier,
19 has received the discovery. We have discussed it together,
20 your Honor.

21 THE COURT: All right. Thank you.

22 And how about Mr. Ilori?

23 MR. BRILL: Judge --

24 THE COURT: The report was he hadn't yet seen it.

25 MR. BRILL: Correct, your Honor. The government told

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1 me that they had 5 terabytes of data. There was some confusion
2 about whether Essex accepted a device large enough to contain
3 5 terabytes of data. They will not. So we have to break the
4 data down into smaller flash drives, which we're working with
5 the government on now. I've seen the discovery, and I've had a
6 chance to review it, but Mr. Ilori has not to this point.

7 THE COURT: And when are you all going to get that
8 worked out?

9 MR. NESSIM: Your Honor, we've been discussing it. We
10 should be able to obtain a hard drive, get a copy to the jail
11 within the next week or two.

12 THE COURT: I mean, a week or two? This is all very
13 vague. You wrote me a letter more than a week ago telling me
14 this exact same thing, so are you people seriously working on
15 this?

16 MR. NESSIM: We are, your Honor. We just identified
17 the issue with the hard drive to Essex. You know, we should
18 finalize that today, and then it's just a matter of getting the
19 hard drive, making the copy, and sending it to the facility.

20 THE COURT: All right. Counsel, how long will you
21 need, do you think, to review it with Mr. Ilori?

22 MR. BRILL: The bulk of what's going to be on those
23 drives is not really relevant. It's just the full scope of
24 everything on these devices.

25 THE COURT: Okay.

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1 MR. BRILL: So with the government's help in
2 identifying specific items that are more relevant, I don't
3 think it will take very long, your Honor.

4 THE COURT: Well, what does that mean?

5 MR. BRILL: I was about to say --

6 THE COURT: I'm sorry.

7 MR. BRILL: No, it's okay. Given the one- or two-week
8 time frame, another maybe three weeks, approximately?

9 THE COURT: All right. We're now at March 22nd. Do
10 you think by the end of April you will have sufficiently
11 reviewed and met with your client to go over it?

12 MR. BRILL: I think we can do that, Judge, yeah.

13 THE COURT: All right. How long does defense counsel
14 need to decide whether there will be any motion practice?

15 MR. BRILL: I don't want to speak for co-counsel. I
16 don't believe they have motions. But there was a search of
17 Mr. Ilori. That is something we're contemplating filing
18 motions on, so obviously just from his own experience and from
19 discussions with Mr. Ilori, I think that that's the key issue.

20 THE COURT: All right. But that you don't need to
21 wait on.

22 MR. BRILL: Correct. I don't know if there's anything
23 else, but I just would like to give Mr. Ilori some chance to
24 review.

25 THE COURT: I already said we're going to wait until

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1 the end of April.

2 MR. BRILL: Yes. So I think that's a similar idea,
3 Judge, and then it's just a question of giving me some time to
4 draft --

5 THE COURT: All right. And how about for
6 Mr. Recamier?

7 MS. GAULI-RUFO: Thank you, your Honor. At this point
8 we've reviewed all the discovery and we do not have motions to
9 file, your Honor.

10 THE COURT: Okay. All right. Then Mr. Brill, I'm
11 going to give you until May 12th to file any motions. And
12 that's for both sides. Should you change your mind,
13 Ms. Gauli-Rufo, and have anything you wish to file, May 12th
14 will be the deadline for filing any motions.

15 And then we will proceed to trial. As I think you all
16 know, we're still have COVID restrictions in place in terms of
17 scheduling trials, so I cannot give you a firm trial date. It
18 is my sincere hope that by the time we're trial ready -- which
19 we're looking at the third quarter of this year, starting
20 sometime in August, that would be, right? July, sometime in
21 July starts the third quarter. I'm hoping COVID restrictions
22 will be eased and we can do the trial here in this courtroom
23 and I can set a trial date, but right now that's not the case.
24 I still have to go through central scheduling, which means I
25 have to put in a request for a trial date in the third quarter,

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1 which I will be doing. So I need, by the end of the week, by
2 March 25th, a letter from counsel advising of any dates in the
3 third quarter when you know that you are unavailable. And I
4 don't want to hear about, you know, I might have a trial in
5 front of some other judge. We're going to set a trial date and
6 that's going to be the firm trial date. So by the end of this
7 week, a letter from each of you telling me any dates in the
8 third quarter—so July, August, and September—when you know you
9 will be unavailable for trial. All right?

10 MR. BRILL: Could I just clarify your last comment.

11 THE COURT: Sure.

12 MR. BRILL: I assume—but I don't want to assume—that
13 you just simply mean that you don't want speculation from us
14 about possible trials but something that we know is fairly firm
15 would be --

16 THE COURT: Correct. Correct.

17 MR. BRILL: Okay. Thank you.

18 THE COURT: And given that everything is done through
19 a central calendar, that means nobody in this courthouse has a
20 firm trial date for the third quarter. Okay?

21 All right. Is there anything else that we should talk
22 about?

23 MR. NESSIM: Not from the government, your Honor,
24 except for the exclusion of time.

25 THE COURT: All right. We'll get to that in one

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1 moment then.

2 MS. GAULI-RUFO: Not from the defense, your Honor, or
3 for Mr. Recamier.

4 MR. BRILL: Nothing for Mr. Ilori. Thank you.

5 THE COURT: All right. Then why don't we set a
6 further pretrial conference, and then we can talk about if you
7 all have a firm date to work off in terms of exclusion of time.

8 So Ms. Dempsey, how do we look in June for a
9 conference? Late June I think should be sufficient. Like the
10 week of the 20th? Oh, no, that's a bad week. The week before?

11 MR. BRILL: Your Honor, I'll be on trial that week,
12 June 13th, out of the district, so --

13 THE COURT: The week of the 6th? June 7th at 11 a.m.?
14 Any objection, June 7th, 11 a.m.?

15 MR. NESSIM: For oppositions and reply scheduling on
16 the motions, do we write to the Court once the motions are
17 filed to set those or --

18 THE COURT: That's a good point. Thank you. So if
19 motions are going to be made by May 12 -- there may not be any,
20 it sounds like, but there may be, particularly from
21 Mr. Ilori -- so opposition would be due then May 26 and any
22 reply, June 1, and then we're going to have a conference on
23 June 7th. That may or may not be enough time for me to have a
24 ruling for you, depending on what motions we have and what the
25 motion is, but we will do a further conference then on

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1 June 7th, 11 a.m.

2 The government's motion?

3 MR. NESSIM: Yes, your Honor. The government moves to
4 exclude time to allow the parties time to review discovery, for
5 plea discussions to continue, and for the parties to prepare
6 their motions.

7 THE COURT: Ms. Gauli-Rufo?

8 MS. GAULI-RUFO: No objection, your Honor.

9 THE COURT: Mr. Brill?

10 MR. BRILL: No objection. Thank you.

11 THE COURT: All right. I will exclude all time from
12 today through and including June 7th of this year. I do find
13 that the exclusion of such time is in the interest of justice
14 and outweighs the interests of the defendants in a speedy trial
15 as it will allow for Mr. Ilori to have access to the discovery
16 material, for the government to complete whatever production it
17 is still to make, for the parties to review that, determine
18 whether there is any motion practice, make whatever motions it
19 wishes to make, and for the parties to engage in any
20 discussions they wish to about a consensual resolution of the
21 matter.

22 Is there anything further?

23 MR. NESSIM: No. Thank you, your Honor.

24 MS. GAULI-RUFO: Nothing further, your Honor. Thank
25 you.

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1 MR. BRILL: Nothing further.

2 THE COURT: All right. Thank you all very much.

3 Thank you to our court reporter. And we are adjourned then.

4 Thank you.

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