IN THE UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	District Court
v.	)	Case No.
	)	21-10073
MICHAEL R. CAPPS,	)	
	)	
Defendant.	)	

TRANSCRIPT OF EXCERPT OF PROCEEDINGS

On the 15th day of December, 2022, came on to be heard proceedings in the above-entitled and numbered cause before the HONORABLE ERIC F. MELGREN, Judge of the United States District Court for the District of Kansas, sitting in Wichita, commencing at 8:30 A.M. Proceedings recorded by machine shorthand. Transcript produced by computer-aided transcription.

APPEARANCES:

The plaintiff appeared by and through:
Mr. Alan Metzger
Ms. Molly M. Gordon
United States Attorney's Office
1200 Epic Center
301 North Main
Wichita, Kansas 67202

The defendant appeared by and through:
Mr. Kurt Kerns
Kerns Law Group
328 North Main Street
Wichita, Kansas 67202

Also present:
FBI Special Agent Ian Ensley

17:17:51 (The following is an excerpt of the proceedings held on December 15, 2022, outside the hearing of the jury:)

17:17:52 THE COURT: So do you think we're going to go to the jury before lunch?

17:18:07 MR. METZGER: I think it's going to be close --

17:18:08 MR. KERNS: (Nods head.)

17:18:09 MR. METZGER: -- if the Court does not intend to reread the instructions.

17:18:12 THE COURT: Oh, believe me, not a chance.

17:18:16 MR. KERNS: Although I called Alan about that exact question, and we both thought you were going to reread them.

17:18:23 THE COURT: I mean, I have three logistical instructions. It'll take five minutes.

17:18:28 See, the problem -- and y'all may have forgotten this because we've already talked about this is a four-day trial and Monday will be our fourth day -- but I'm in Oklahoma Tuesday.

17:18:39 MR. METZGER: Yes.

17:18:40 THE COURT: So if we don't get a jury verdict and a forfeiture verdict, if necessary, on Monday, then we again take a day off. So I'm going to start issuing injunctions against AUSAs retiring.

17:18:58 Well, I think what we'll plan to shoot for is,

17:19:01 even if we have a slightly late lunch, trying to get it
17:19:04 to the jury before lunch Monday, if that's possible.
17:19:07 MR. METZGER: I think we'll be able to do that,
17:19:09 Your Honor.
17:19:09 MR. KERNS: (Nods head.)
17:19:10 THE COURT: All right. Very good. Anything else?
17:19:13 And then, frankly, depending how things go, you know, my
17:19:20 son-in-law's a prosecutor in Missouri and they keep the
17:19:23 jury there till everything's done, midnight, 1:00 o'clock
17:19:26 not unusual. We may just stay late -- yeah, my staff's
17:19:30 looking at me.
17:19:31 CLERK SCHMIDT: Someone asked me if we do that.
17:19:33 THE COURT: Yeah, well, we haven't.
17:19:34 CLERK SCHMIDT: I told them we make them sleep
17:19:37 overnight.
17:19:37 THE COURT: No, we don't want them to sleep; we
17:19:39 want them to keep working. We may just stay here late
17:19:42 Monday to try to finish things up, so I might pack
17:19:45 dinner.
17:19:46 All right. Anything else we need to talk about
17:19:49 then this evening?
17:19:50 MR. METZGER: No, Your Honor.
17:19:51 MR. KERNS: No, Your Honor.
17:19:51 THE COURT: Okay. We'll be in recess until Monday
17:19:53 morning at 8:30. Thank you.

17:19:55 CLERK SCHMIDT: All rise.

17:19:57 (Whereupon, the proceedings were adjourned at

17:20:00 5:19 P.M.)

(End of requested excerpt.)

C E R T I F I C A T E

I, Johanna L. Wilkinson, United States Court Reporter in and for the District of Kansas, do hereby certify:

That the above and foregoing proceedings were taken by me at said time and place in stenotype;

That thereafter said proceedings were transcribed under my direction and supervision by means of computer-aided transcription, and that the above and foregoing constitutes a full, true and correct transcript of said proceedings;

That I am a disinterested person to the said action.

IN WITNESS WHEREOF, I hereto set my hand on this the 13th day of January, 2023.

s/ Johanna L. Wilkinson
Johanna L. Wilkinson, CSR, CRR, RMR
United States Court Reporter