

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 20-1713

U.S. v. MATTIS, ET AL.

Motion For: emergency motion to stay district court's  
order affirming magistrate judge's order releasing  
defendants on bond

Set forth below precise, complete statement of relief sought:  
The government seeks an emergency stay of the district  
court's oral order, issued at approximately 6:00 p.m. on  
June 1, releasing the defendants on bond. The defendants  
were arrested after throwing Molotov cocktails at NYPD  
vehicles during protests in Brooklyn on May 30 and  
attempting to distribute same to other protesters.

MOVING PARTY: APPELLANT  
☐ Plaintiff ☐ Defendant  
☒ Appellant/Petitioner ☐ Appellee/Respondent

OPPOSING PARTY: APPELLEE

MOVING PARTY: David K. Kessler, AUSA  
U.S. Attorney's Office  
271-A Cadman Plaza East Brooklyn, N.Y. 11201  
(718) 254-7202; David.Kessler@usdoj.gov

OPPOSING PARTY: John Burke, Esq. (Urooj Rahman),  
26 Court St, Ste 2805, Brooklyn, NY 11242. 718-875-3707  
Sabrina Shroff, Esq. (Colinford Mattis), 44 Gramercy Pk.  
North, #7A, NY, NY 10010. 646-763-1490

Court-Judge/Agency appealed from: The Honorable Margo K. Brodie, U.S.D.J., E.D.N.Y.

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):  
☒ Yes ☐ No (explain): \_\_\_\_\_

Opposing counsel's position on motion:  
☐ Unopposed ☒ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:  
☒ Yes ☐ No ☐ Don't Know

Is oral argument on motion requested? ☒ Yes ☐ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? ☐ Yes ☒ No If yes, enter date: \_\_\_\_\_

Signature of Moving Attorney:



Date: 6/2/2020

Service by: ☒ CM/ECF ☐ Other [Attach proof of service]

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? ☒ Yes ☐ No

Has this relief been previously sought in this court? ☐ Yes ☒ No

Requested return date and explanation of emergency:

We request a return date of June 2, 2020 in light  
of the danger to the community posed by the  
defendants' release on bond

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
----- X

UNITED STATES OF AMERICA

Appellant,

- against -

COLINFORD MATTIS and  
UROOJ RAHMAN,

Defendant-Appellees.

**AFFIRMATION IN SUPPORT  
OF GOVERNMENT'S  
EMERGENCY MOTION FOR  
STAY OF DEFENDANTS'  
RELEASE PENDING APPEAL  
AND APPENDIX**

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EASTERN DISTRICT OF NEW YORK, SS:

DAVID K. KESSLER, pursuant to Title 28, United States  
Code, Section 1746, hereby declares under penalty of perjury:

1. I am an Assistant United States Attorney in the Office  
of Richard P. Donoghue, United States Attorney for the Eastern District  
of New York, and I represent the United States of America in this appeal.  
I submit this affirmation in support of the Government's emergency

motion for a stay of the release of defendant-appellees Colinford Mattis and Urooj Rahman pending appeal.<sup>1</sup>

### **PRELIMINARY STATEMENT**

2. The Government brings this appeal pursuant to 18 U.S.C. §§ 3145(c) and 3731 and Rule 9(a) of the Federal Rules of Appellate Procedure, seeking review of an order of the Honorable Margo K. Brodie, United States District Judge for the Eastern District of New York, which was entered on June 1, 2020, releasing Mattis and Rahman on bail pending trial.

3. The district court issued the challenged order releasing the defendants over the government's objection at approximately 6:00 p.m. on June 1, 2020, and denied the government's request to stay its decision to give the government an opportunity to appeal its decision or to seek a stay from this Court. The defendants were released at approximately 8:30 p.m. on June 1, 2020.

4. The Government now moves for an emergency stay of the defendants' release and for their immediate remand to custody for

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<sup>1</sup> The Solicitor General has authorized the government to seek this stay and to appeal the district court's order affirming the magistrate judge's bail determination.

the duration of this appeal. For the reasons set forth below, the Government's motion should be granted.

### **STATEMENT OF FACTS**

5. On the night of May 29, into the early morning of May 30, 2020, thousands of people held large demonstrations in Brooklyn, New York to protest the death of George Floyd, an African-American man who died during an arrest by Minneapolis police officers earlier that week. (GA 1 (complaint), 5–8 (memorandum in support of pre-trial detention<sup>2</sup>). During the demonstrations, certain individuals and groups of individuals unlawfully obstructed the flow of vehicle traffic on city streets and refused commands from New York City Police Department (“NYPD”) officers to leave the streets and return to the sidewalks. (Id.). Some individuals and groups of individuals vandalized vehicles and businesses with graffiti and by smashing the vehicles and windows of the businesses with heavy objects. (Id.). Some individuals and groups of individuals targeted the NYPD, vandalizing NYPD vehicles that had responded to the protests, and in some cases, attempting to gain access

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<sup>2</sup> References to “GA” and “DE” are to the government's appendix to this motion and docket entries in the district court, respectively.

to NYPD stationhouses without authorization, thus interfering and obstructing the NYPD's efforts to maintain and restore order. (Id.).

6. On or about May 30, 2020 at approximately 12:57 a.m., the defendant Urooj Rahman exited a tan minivan and approached an NYPD vehicle parked in the vicinity of the NYPD's 88th Precinct located in Fort Greene, Brooklyn.<sup>3</sup> (GA 2 ¶ 2). After the defendant Rahman approached the NYPD vehicle, she lit and threw an incendiary device, comprised of a bottle containing an incendiary chemical (sometimes referred to as a "Molotov cocktail" device) into the NYPD vehicle through a previously broken window, which set fire to the console of the NYPD vehicle. (Id.). The defendant Rahman then returned to the tan minivan, which fled the scene. (Id.).

7. Shortly thereafter, an NYPD patrol vehicle stopped the tan minivan in the vicinity of 200 Willoughby Avenue. (GA 3 ¶ 3). NYPD officers thereafter placed the driver, defendant Colinford Mattis,

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<sup>3</sup> The NYPD vehicle is the property of the NYPD and the New York City government. (GA 3 ¶ 5.) Both the NYPD and New York City government conduct business in interstate commerce, for instance by purchasing vehicles and other equipment and supplies in interstate commerce. (Id.) The activities of the NYPD and the New York City government in enacting and enforcing laws also affect interstate commerce. (Id.)

and the passenger, defendant Rahman, under arrest. During the arrest, officers observed in plain view several precursor items to build a Molotov cocktail, including a lighter, a bottle filled with toilet paper and a liquid suspected to be gasoline in the vicinity of the passenger seat and a gasoline tank in the rear of the vehicle. (Id.). The defendant Mattis is the registered owner of the tan minivan.

8. The defendants were arrested on May 30, 2020, and were charged by complaint in the Eastern District of New York with a violation of 18 U.S.C. § 844(i).<sup>4</sup>

9. On June 1, 2020, each defendant was arraigned on the complaint before United States Magistrate Judge Steven M. Gold. The government argued that the court should enter a permanent order of detention because the defendants present a severe and ongoing danger to the community and a serious risk of flight. (GA 5). The magistrate judge ordered that each defendant be released pursuant to a \$250,000

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<sup>4</sup> Section 844(i) provides that “[w]hoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.”

bond, co-signed by multiple sureties, and set conditions of pretrial release including home detention and electronic monitoring. (GA 28–29, (Mattis), 56–60 (Rahman)).

10. On June 1, 2020, Judge Brodie denied the Government’s application for detention.<sup>5</sup> Although the district court held that the defendants’ conduct was “completely lawless,” the court held that the conditions set by the magistrate judge were sufficient to ensure the defendants’ appearance in court. The district court did not explicitly hold that the same conditions adequately mitigated the danger to the community. The court denied the government’s request to stay its release order so that the government could seek permission to appeal the order, or seek a stay of the order in this Court pending appeal.

**THE GOVERNMENT’S MOTION  
FOR A STAY SHOULD BE GRANTED**

11. “Four criteria are relevant in considering whether to issue a stay of an order of a district court or an administrative agency pending appeal: the likelihood of success on the merits, irreparable injury

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<sup>5</sup> The government has ordered the transcript of the proceedings before Judge Brodie on an expedited basis and will provide them to the Court upon receiving them.

if a stay is denied, substantial injury to the party opposing a stay if one is issued, and the public interest.” Mohammed v. Reno, 309 F.3d 95, 100 (2d Cir. 2002) (citing Hilton v. Braunskill, 481 U.S. 770, 776 (1987)). The weight of these factors counsels in favor of granting the Government’s motion.

12. First, the Government has a strong chance of prevailing on this appeal, because the District Court clearly erred in ordering the defendants’ release on bail. Each of the statutory factors in 18 U.S.C. § 3142(g) weighs heavily in favor of each defendants’ detention.

a. Nature and circumstances of the offense. The defendants’ criminal conduct was extraordinarily serious. Amid the largely peaceful demonstrations taking place on Friday night, Mattis and Rahman committed an act of potentially deadly violence. The actions endangered NYPD officers, as well as other individuals on the street in close proximity to the attack. The contents of the defendants’ vehicle – including at least one other fully assembled Molotov cocktail as well as other precursor materials — reflects that the defendants intended to conduct other similar attacks opportunistically thereafter. In addition, the defendants sought to incite others to launch similar attacks and



attempted to distribute other Molotov cocktails to other protestors in furtherance of this objective. (GA 6). Indeed, 18 U.S.C. § 844(i) is among those offenses that carry a presumption that no condition or combination of conditions will be sufficient to permit a defendant to be released on bond, see 18 U.S.C. §§ 3142(e)(3)(C), 2332b(g)(5)(B), and therefore gives rise to a presumption of detention.

b. Weight of the evidence against the defendants.

The weight of the evidence in this case is overwhelming. The defendants were caught on camera firebombing an NYPD vehicle. Moreover, just minutes after committing that dangerous and violent act, they were arrested with another assembled Molotov cocktail as well as other precursor materials that could be used to make additional destructive devices. And the defendants were photographed by another witness while they were attempting to incite others to commit attacks with Molotov cocktails they provided.

c. History and characteristics of the defendant.

Each defendant is a licensed attorney who has attended prestigious universities and law schools. As such, the defendants were well aware of the severity of their criminal conduct when they decided to hurl a

Molotov cocktail at an NYPD vehicle and to incite others to do the same. They knew their acts endangered the NYPD officers and protestors on the street, as well as their own futures, and the defendants were undeterred.

d. Finally, the conditions of release ordered by the District Court, which, in relevant part, consist of home detention with electronic monitoring, are insufficient to protect the community and to guard against risk of flight. This Court has noted that electronic monitoring systems fail to provide the security of detention because “electronic surveillance systems can be circumvented” and “monitoring equipment . . . rendered inoperative.” See United States v. Orena, 986 F.2d 628, 632 (2d Cir. 1993) (cited approvingly in United States v. Brennerman, 705 F. App’x 13, 16 (2d Cir. 2017)); United States v. Liebowitz, 669 F. App’x 603, 605 (2d Cir. 2016). The circumstances of the offense show that the defendants — each of whom is an attorney — were already acutely aware of the danger they posed to the public yet acted in total disregard of the law. No electronic monitoring or apartment door can adequately safeguard the community against individuals with that mindset.

13. Second, there may be irreparable injury if this stay is denied. Each defendant poses a danger to the community if released because he or she could violate the terms of his or her home confinement and participate in future attacks against law enforcement officers, particularly during the ongoing period of unrest in New York City. Neither an order for home confinement nor a GPS monitor is a physical tether that would prevent one or both of the defendants from leaving their residence to participate in additional violence. Moreover, each of these defendants — with successful careers, apparently strong support from family and friends — chose to break the law in an extraordinarily callous and dangerous way. There is no assurance that either defendant would not likewise flout court-imposed conditions of release.

14. Each defendant also presents a significant flight risk. There is significant and weighty evidence of each defendant's guilt. If convicted at trial, each will face a mandatory minimum sentence of 5 years' imprisonment. The prospect of a lengthy term of incarceration may reasonably incentivize the defendants to flee and thus establishes the defendants' status as a serious risk of flight. United States v. Dodge,

846 F. Supp. 181, 184-85 (D. Conn. 1994) (possibility of a “severe sentence” heightens the risk of flight).

15. Third, the balance of hardships and the public interest weigh in favor of granting a stay of each of the defendants’ release pending this appeal. The risk that the defendants will commit another violent offense — particularly while the unrest in New York City continues — if a stay is denied threatens irreparable injury to both law enforcement officers and other New York City residents. By contrast, this appeal can be heard quickly. The Government is prepared to file its merits brief within ten days — or earlier, if the Court so directs. Finally, given the evidence that the defendants each pose a danger to the community, for all the reasons outlined above, the public interest also favors granting a stay. In short, the seriousness of the offense, the strength of the evidence, each defendant’s personal characteristics, and the risk of danger to the community all weigh in favor of a stay.

### **CONCLUSION**

16. For the foregoing reasons, the Government has carried its burden of demonstrating that a stay pending determination of this appeal is warranted.

WHEREFORE, for the reasons set forth herein, the Government respectfully requests that the Court grant the Government's motion for a stay pending appeal, remand the defendants and calendar briefing for the submission of merits briefs.

Dated: Brooklyn, New York  
June 2, 2020

A handwritten signature in dark ink, appearing to read "D. Kessler", is positioned above a horizontal line.

DAVID K. KESSLER  
Assistant United States Attorney  
Eastern District of New York  
(718) 254-7202

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RMT/AAS:JEA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
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20-403 M

UNITED STATES OF AMERICA

- against -

COLINFORD MATTIS and  
UROOJ RAHMAN,

Defendants.

COMPLAINT AND  
AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR  
ARREST WARRANTS

(18 U.S.C. §§ 844(i), 2)

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EASTERN DISTRICT OF NEW YORK, SS:

KYLE JOHNSON, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Causing Damage by Fire and Explosives – Police Vehicle

On or about May 30, 2020, within the Eastern District of New York, the defendants COLINFORD MATTIS and UROOJ RAHMAN did knowingly, intentionally and maliciously damage, and attempt to damage and destroy, by means of fire and one or more explosives, a vehicle and other real property used in interstate and foreign commerce and in an activity affecting interstate and foreign commerce, to wit: a New York City Police Department vehicle in Brooklyn, New York.

(Title 18, United States Code, Sections 844(i), 2)



The source of your deponent's information and the grounds for his/her belief are as follows:<sup>1</sup>

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") assigned to the Joint Terrorism Task Force ("JTTF"). I have been an agent for approximately four years. As a Special Agent, I have investigated numerous matters during the course of which I have conducted physical and electronic surveillance, interviewed witnesses, executed court-authorized search warrants and used other investigative techniques to secure relevant information regarding a variety of crimes. I am familiar with the facts and circumstances set forth below from my personal review of records, documents and other physical evidence obtained during this investigation, and from communications and information provided to me by fellow agents and other government personnel with knowledge related to this investigation.

2. On or about May 30, 2020 at approximately 12:57 a.m., an individual, later identified as the defendant UROOJ RAHMAN, exited a tan minivan and approached a New York City Police Department ("NYPD") vehicle parked in the vicinity of the NYPD's 88th Precinct located in Fort Greene, Brooklyn. Video surveillance from the NYPD's 88th Precinct captured the events. After the defendant RAHMAN approached the NYPD vehicle, she lit and threw an incendiary device, comprised of a bottle containing an incendiary chemical (sometimes referred to as a "Molotov cocktail" device) into the NYPD

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<sup>1</sup> Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

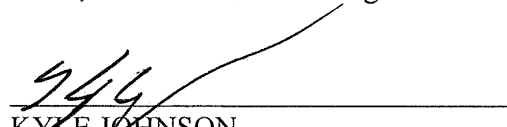
vehicle through a previously broken window, which set fire to the console of the NYPD vehicle. The defendant RAHMAN then returned to the tan minivan, which fled the scene.

3. Law enforcement observed the defendant RAHMAN throw the Molotov cocktail into the NYPD vehicle and followed the tan minivan during its attempt to flee. Shortly thereafter, an NYPD patrol vehicle stopped the tan minivan, later identified as a tan 2015 Chrysler Town and Country minivan with New York license plate JMU 7197, in the vicinity of 200 Willoughby Avenue. NYPD officers thereafter placed the driver, defendant COLINFORD MATTIS and the passenger, defendant RAHMAN, under arrest. During the arrest, officers observed in plain view several precursor items to build a Molotov cocktail, including a lighter, a bottle filled with toilet paper and a liquid suspected to be gasoline in the vicinity of the passenger seat and a gasoline tank in the rear of the vehicle.

4. A review of law enforcement databases shows that the defendant MATTIS is the registered owner of the tan 2015 Chrysler Town and Country minivan.


5. The NYPD vehicle is the property of the NYPD and the New York City government. Both the NYPD and New York City government conduct business in interstate commerce, for instance by purchasing vehicles and other equipment and supplies in interstate commerce. The activities of the NYPD and the New York City government in enacting and enforcing laws also affect interstate commerce.

WHEREFORE, your deponent respectfully requests that the defendant COLINFORD MATTIS and UROOJ RAHMAN, be dealt with according to law.

  
KYLE JOHNSON  
Special Agent, Federal Bureau of Investigation

Sworn to before me this  
30th day of May, 2020

SWORN VIA TELEPHONE

  
THE HONORABLE SANKET J. BULSARA  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK


**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

RMT/AAS:ICR/JEA

*271 Cadman Plaza East  
Brooklyn, New York 11201*

June 1, 2020

By E-Mail and ECF

The Honorable Steven M. Gold  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Colinford Mattis and Urooj Rahman  
Magistrate Docket No. 20-403

Dear Judge Gold:

Later today, defendants Colinford Mattis and Urooj Rahman are scheduled to be presented before Your Honor on the above-referenced complaint. For the reasons set forth below, the government respectfully submits that the Court should enter a permanent order of detention because the defendants present a severe and ongoing danger to the community and a serious risk of flight.

I. The Offense Conduct<sup>1</sup>

On the night of May 29, into the early morning of May 30, 2020, thousands of people held large demonstrations in Brooklyn, New York to protest the death of George Floyd, an African-American man who died during an arrest by Minneapolis police officers earlier that week. During the demonstrations, certain individuals and groups of individuals unlawfully obstructed the flow of vehicle traffic on city streets and refused commands from New York City Police Department ("NYPD") officers to leave the streets and return to the sidewalks. Some individuals and groups of individuals vandalized vehicles and businesses with graffiti and by smashing the vehicles and windows of the businesses with heavy objects. Some individuals and groups of individuals targeted the NYPD, vandalizing NYPD vehicles that had responded to the protests, and in some cases, attempting to gain access to NYPD

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<sup>1</sup> Detailed herein are a proffer of the relevant facts and a discussion of the applicable law pertaining to the pretrial detention of the defendant. See United States v. LaFontaine, 210 F.3d 125, 130-31 (2d Cir. 2000) (government entitled to proceed by proffer in detention hearings).

stationhouses without authorization, thus interfering and obstructing the NYPD's efforts to maintain and restore order.

In the early hours of May 30, 2020, the defendants drove in a tan minivan to the vicinity of the NYPD's 88th Precinct located in Fort Greene, Brooklyn. Upon identifying an NYPD vehicle, Rahman exited from the passenger's side front door of the minivan, approached the NYPD vehicle, and then lit and threw an incendiary device consisting of a glass bottle containing an incendiary chemical (sometimes referred to as a "Molotov cocktail" device) into the NYPD vehicle through a previously broken window. The Molotov cocktail set fire to the console of the NYPD vehicle. After throwing the Molotov cocktail in the NYPD vehicle, Rahman returned to the minivan, which fled the scene.

This conduct was captured on video surveillance cameras in the area. Law enforcement officers also observed Rahman throw the Molotov cocktail in the NYPD vehicle and followed the tan minivan during its attempt to flee. Shortly thereafter an NYPD patrol vehicle stopped the vehicle and placed Mattis, the driver, and Rahman, the passenger, under arrest. During the arrest, officers observed in plain view several precursor items used to build a Molotov cocktail, including a lighter, a Bud Light beer bottle filled with toilet paper and a liquid suspected to be gasoline in the vicinity of the passenger seat and a gasoline tank in the rear of the vehicle. The tan minivan was identified as a tan 2015 Chrysler town and Country minivan with New York license plate JMU 7197, which was registered to Mattis.

Though Mattis and Rahman were initially taken into custody by the NYPD, the instant prosecution commenced after the government filed a one-count complaint charging Mattis and Rahman with causing damage by fire and explosives to a police vehicle, in violation of 18 U.S.C. § 844(i).

A witness provided authorities with a picture of Rahman and Mattis in the tan minivan earlier in the night with Rahman holding a Molotov cocktail. The picture is shown below. The witness stated, in sum and substance, that Rahman attempted to distribute Molotov cocktails to the witness and others so that those individuals could likewise use the incendiary devices in furtherance of more destruction and violence.



Below are the defendants' arrest photographs, showing they were dressed in the same clothes depicted in the above photograph.



## II. Legal Standard

Under the Bail Reform Act, Title 18, United States Code, Section 3141, et seq., federal courts are empowered to order a defendant's detention pending trial upon a determination that the defendant is either a danger to the community or a risk of flight. See 18 U.S.C. § 3142(e) (a judicial officer "shall" order detention if "no condition or combination of conditions would reasonably assure the appearance of the person as required and the safety of any other person and the community"). A finding of dangerousness must be supported by clear and convincing evidence. See United States v. Ferranti, 66 F.3d 540, 542 (2d Cir. 1995); United States v. Chimurenga, 760 F.2d 400, 405 (2d Cir. 1985). A

finding of risk of flight must be supported by a preponderance of the evidence. See United States v. Jackson, 823 F.2d 4, 5 (2d Cir. 1987); Chimurenga, 760 F.2d at 405.

The Bail Reform Act lists the following factors to be considered in the detention analysis: (1) the nature and circumstances of the offenses charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release. See 18 U.S.C. § 3142(g). As discussed below, these factors weigh heavily against pretrial release.

For certain offenses, including the offense charged in the Complaint, the law presumes that there is no set of conditions that will reasonably assure the defendant's appearance or the safety of the community. 18 U.S.C. § 3142(e)(3). This presumption may be rebutted by the defendant, provided the defendant is able to present evidence that she is neither a danger nor a risk of flight. See United States v. Mercedes, 254 F.3d 433, 436 (2d Cir. 2001). Even upon such a showing, however, the presumption in favor of detention "does not disappear entirely, but remains a factor to be considered among those weighed[.]" id., because it "reflects Congress's substantive judgment that particular classes of offenders should ordinarily be detained prior to trial" and "represents Congressional findings that certain offenders . . . are likely to continue to engage in criminal conduct undeterred either by the pendency of charges against them or by the imposition of monetary bond or other release conditions." United States v. Stone, 608 F3d 939, 945-946 (6th Cir. 2010) (internal quotation marks and citation omitted) (ellipsis in original).

Evidentiary rules do not apply at detention hearings and the government is entitled to present evidence by way of proffer, among other means. See 18 U.S.C. § 3142(f)(2); see also LaFontaine, 210 F.3d at 130-31. In the pre-trial context, few detention hearings involve live testimony or cross-examination. Most proceed on proffer. Id. at 131. This is because bail hearings are "typically informal affairs, not substitutes for trial or discovery." Id. (internal quotation marks omitted); see also United States v. Mercedes, 254 F.3d 433, 437 (2d Cir. 2001) ("[The defendant] has twice been convicted of weapon possession--one felony conviction, and one misdemeanor conviction. We find the district court committed clear error in failing to credit the government's proffer with respect to [the defendant's] dangerousness.").

### III. The Court Should Enter a Permanent Order of Detention

The factors to be considered in the detention analysis show that the defendants present both a severe and ongoing danger to the community and a serious risk of flight if released on bond. Because the law presumes that there is no set of conditions that will reasonably assure the defendants' appearance or the safety of the community, and because that presumption cannot be rebutted for the reasons set forth below, the Court should enter a permanent order of detention for both defendants pending trial.



A. The Nature and Circumstances of the Offense Charged

The defendants' criminal conduct was extraordinarily serious.

Amid the largely peaceful demonstrations taking place on Friday night, Mattis and Rahman committed an act of potentially deadly violence. They sought out and targeted an NYPD vehicle. Rahman then hurled a Molotov cocktail at that vehicle, causing fire and damage inside. They conducted this improvised incendiary device attack in close proximity to other individuals on the street, placing those individuals in grave danger. With that attack complete, Mattis acted as the getaway driver for Rahman, as the two sought to escape the scene and avoid arrest.

The contents of the defendants' vehicle – including at least one other fully assembled Molotov cocktail as well as other precursor materials – reflects that the defendants intended to conduct other similar attacks opportunistically thereafter. In addition, the defendants sought to incite others to launch similar attacks and attempted to distribute other Molotov cocktails to other protestors in furtherance of this objective.

In listing the “nature and circumstances of the offense charged” as a criterion in the detention analysis, the Bail Reform Act specifically provides that the Court is to consider whether the crime charged is, among others, a crime of violence, a Federal crime of terrorism, or a crime involving an explosive or destructive device. See 18 U.S.C. § 3142(g)(1). The charge offense falls within multiple such categories, confirming that Congress viewed this crime as sufficiently serious to factor against release on bond.

Indeed, as set forth above, Congress recognized the seriousness of the charged offense by specifically enumerating 18 U.S.C. § 844(i) among those offenses that carry a presumption that no condition or combination of conditions will be sufficient to permit a defendant to be released on bond. Specifically, Section 844(i), which carries a maximum term of 20 years' imprisonment, is “an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, for which a maximum term of imprisonment of 10 years or more is prescribed,” see 18 U.S.C. § 3142(e)(3)(C), and therefore gives rise to a presumption of detention.

The defendants face a mandatory minimum sentence of five years' imprisonment and up to 20 years' imprisonment. The prospect of a lengthy term of incarceration may reasonably incentivize the defendants to flee and thus establishes the defendants' status as a serious risk of flight. United States v. Dodge, 846 F. Supp. 181, 184-85 (D. Conn. 1994) (possibility of a “severe sentence” heightens the risk of flight).

B. The Weight of the Evidence

The weight of the evidence in this case is overwhelming. The defendants were caught on camera firebombing an NYPD vehicle. Moreover, just minutes after committing that dangerous and violent act, they were arrested with another assembled Molotov cocktail

as well as other precursor materials that could be used to make additional destructive devices. And the defendants were photographed by another witness while they were attempting to incite others to commit attacks with Molotov cocktails they provided.

C. The Defendant's History and Characteristics

Both defendants are licensed attorneys who have attended prestigious universities and law schools. As such, the defendants were well aware of the severity of their criminal conduct when they decided to hurl a Molotov cocktail at an NYPD vehicle and to incite others to do the same. They knew their acts endangered the NYPD officers and protestors on the street, as well as their own futures, and the defendants were undeterred.

D. The Nature and Seriousness of the Danger to the Community Posed by Release

The defendants pose a severe and ongoing risk to the community. They have committed an attack with an incendiary device and sought to aid and abet others in similar attacks. Amid the ongoing social unrest in New York City, the government respectfully submits that these defendants, if placed on pretrial release, would return to rioting, destroying property, and endangering others. Indeed, these defendants—attorneys and purported officers of the court—were already acutely aware of the danger they posed to the public in acting in total disregard of the law. There is no reason the Court should give them the benefit of the doubt that, this time, they will respect the Court's orders regarding terms of pretrial release.

IV. Conclusion

In summary, these defendants abdicated their responsibilities as attorneys. Instead of using their privileged positions to change society lawfully, they used a Molotov cocktail and sought to incite others to adopt their violent ways. They hid under the cloak of peaceful protests and attacked the institutions and individuals who keep them safe and protect their Constitutional rights. They present a severe and ongoing danger to the community, as well as a serious risk of flight, that no set of release conditions can mitigate.

For all of the foregoing reasons, including the legal presumption that there is no set of conditions that will reasonably assure the defendants' appearance or the safety of

the community, the government respectfully submits that the Court should thus enter permanent orders of detention pending trial.

Respectfully submitted,

RICHARD P. DONOGHUE  
United States Attorney

By: /s/  
Ian C. Richardson  
Jonathan E. Algor  
Assistant U.S. Attorneys  
(718) 254-7000

cc: Clerk of Court (by ECF)

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X  
4 UNITED STATES OF AMERICA, : 20-MJ-403(SJB)  
5 Plaintiff, :  
6 -against- : United States Courthouse  
7 COLINFORD MATTIS, : Brooklyn, New York  
8 Defendant. : June 1, 2020  
9 : 3:00 o'clock p.m.  
10 - - - - - X

11 TRANSCRIPT OF ARRAIGNMENT BY VIDEOCONFERENCE  
12 BEFORE THE HONORABLE STEVEN M. GOLD  
13 UNITED STATES MAGISTRATE JUDGE.

14 APPEARANCES:

15 For the Government: RICHARD P. DONOGHUE  
16 United States Attorney  
17 BY: IAN RICHARDSON  
18 JONATHAN E. ALGOR, IV  
19 Assistant United States Attorney  
20 271 Cadman Plaza East  
21 Brooklyn, New York

22 For the Defendant: SABRINA P. SHROFF, ESQ.

23 Court Reporter: Charleane M. Heading  
24 225 Cadman Plaza East  
25 Brooklyn, New York  
(718) 613-2643

Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

1 (All present by videoconference including the  
2 defendant.)

3 THE COURT: All right. United States against  
4 Colinford Mattis. This is 20-MJ -- I can't keep track of all  
5 my documents.

6 THE CLERK: 403.

7 THE COURT: Thank you.

8 For the United States, your appearance, please.

9 MR. RICHARDSON: Good afternoon, Your Honor. Ian  
10 Richardson and Jonathan Algor for the United States.

11 THE COURT: Counsel for Mr. Mattis, please.

12 MR. SHROFF: Good afternoon, Your Honor. On behalf  
13 of Mr. Mattis, who I can see on the video screen, Sabrina  
14 Shroff.

15 THE COURT: And do you consent to having this  
16 proceeding conducted by videoconference?

17 MR. SHROFF: Having discussed the matter fully with  
18 my client yesterday, Your Honor, Mr. Mattis and I both  
19 consent.

20 THE COURT: Thank you.

21 Mr. Mattis, can you see and hear me?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you speak and understand English?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: I'm United States Magistrate Judge

1 Steven Gold and I am presiding over what's called your initial  
2 appearance in this case. You are before the Court on a  
3 warrant that was issued over the weekend and previously sworn  
4 to and, therefore, I won't be swearing you in.

5 Now that you are under arrest, I want to make sure  
6 that you understand that you have a right to remain silent.  
7 You do not have to make any statements or answer any  
8 questions. If you started, you have the right to stop. If  
9 you cease to remain silent, no one may use this as evidence  
10 against you as the case moves forward. On the other hand, if  
11 you make statements to anyone other than your attorney, the  
12 prosecutor may use what you said as evidence against you.

13 Do you understand me so far?

14 THE DEFENDANT: I do understand, Your Honor.

15 THE COURT: You have a right to be defended by an  
16 attorney and to ask the Court to appoint a lawyer to defend  
17 you at no cost to you if you cannot afford one. That is why  
18 Shroff has come forward and asked that the Court appoint her  
19 to represent you in this case. She also offered to represent  
20 you without compensation if the Court finds that application.

21 Do you understand me?

22 THE DEFENDANT: I do understand you.

23 THE COURT: And is it your election to have the  
24 attorney represent you --

25 THE DEFENDANT: Sorry? I can't hear you.

1           THE COURT: If you are not speaking, please mute  
2 your phone. Whoever that is, please hang up and mute your  
3 phone.

4           We are going to have to try to talk over them,  
5 Mr. Mattis, because I can't ask everybody. I'll do my best  
6 and I'll talk slowly and if you can't hear me, don't hesitate  
7 to let me know.

8           THE DEFENDANT: Okay. Your Honor.

9           THE COURT: I was asking if you are electing,  
10 choosing to have Ms. Shroff as your counsel because she is  
11 asking for permission to represent you even if the Court does  
12 not appoint her. Do you want her to be your lawyer?

13          THE DEFENDANT: Yes, I do, Your Honor.

14          THE COURT: You have a right to understand the  
15 charges against you. The charge has been written down by the  
16 government lawyers and have given Ms. Shroff a copy.

17          Has she gone over it with you carefully and do you  
18 understand what the government is saying?

19          THE DEFENDANT: Yes, Your Honor, we have reviewed it  
20 and I understand.

21          THE COURT: Thank you.

22          I am asking, again, that everyone who is  
23 participating as a listener, please mute your phone.

24          Ms. Shroff, are you satisfied your client  
25 understands his rights and the charge against him?

1 MR. SHROFF: I am satisfied, Your Honor.

2 THE COURT: And I apologize to the reporter. I am  
3 doing my best.

4 The government has drafted a letter seeking  
5 detention of the defendant Colinford Mattis. Does the  
6 government wish to add to its letter?

7 MR. RICHARDSON: Your Honor, I would only add that  
8 we have not been provided a list of any potential sureties.  
9 We're not aware of any components of a package that Mr. Mattis  
10 might be offering and I'm just -- all we have is what the  
11 government has put forward in the application.

12 THE COURT: Have you had a chance to see the  
13 Pretrial report as well?

14 MR. RICHARDSON: I have, Your Honor.

15 THE COURT: Thank you.

16 Ms. Shroff?

17 MR. SHROFF: Thank you, Your Honor. Your Honor, I  
18 will not belabor the arguments made by Mr. Yaster as to why  
19 release is appropriate in this case. Under the Bail Reform  
20 Act and even in light of the presumption, I believe the facts  
21 in this case including the facts to be considered by the Court  
22 clearly show that I have overcome and am able to overcome the  
23 presumption of any detention here.

24 If I may just start where the Pretrial report starts  
25 because the government certainly is an advocate for its



1 position, I'm an advocate for my client, but Pretrial,  
2 Pretrial is an objective party here, as objective as the  
3 Court. Pretrial Officer Anna Lee had a detailed interview  
4 with Mr. Mattis. She spoke to him at great length and caused  
5 from him all of his personal facts. I do not want to belabor  
6 them here, but I note again that he has absolutely no criminal  
7 history, he has been a member of the New York community since  
8 the day of his birth, he resides now in the same home that his  
9 mother who is now deceased and died just a year ago this month  
10 owned along with her four children.

11 Colin lives in that home now. He lives in that home  
12 with his sister Lyris who is on the line and would be a  
13 cosigner here. Within a block from Lyris and Colin, lives  
14 their sister Octavia and she is also an educated cosigner.  
15 Also, within the community and cosigns for him are his other  
16 siblings including Doreen who is on the line here and Ernie  
17 who is also on the line.

18 Putting aside the argument that the government has  
19 already made in front of the facts of the case, and let's just  
20 for a moment, put them, aside and for purposes of the bail  
21 hearing today, assume that the government's position is fair.  
22 Even then, even then, bail is wholly appropriate here.

23 Certainly, the government is not possibly arguing  
24 that there is any risk of flight at all. There is none. His  
25 travel as detailed in the Pretrial Services report for travel

1 undertaken was while he was a student and I point out that  
2 Colin was a prep student. He was chosen to go to a school in  
3 Delaware.

4 From there, having graduated with honors, he  
5 attended Princeton University. I understand almost all of the  
6 colleagues that he had at Princeton are either on this line,  
7 have called me or e-mailed me or offered to support him in one  
8 way or another. I could not overemphasize here the level of  
9 support that Colin has received from the Princeton community,  
10 both the student body, the fact that he was, I believe he was  
11 president of the African-American student union when he  
12 attended Princeton, and then the folks at NYU where he  
13 attended law school.

14 Everyone that has reached out to me here has offered  
15 to help him in some way or another. And, certainly, I  
16 apologize to you, Your Honor. I'm from the Southern District  
17 school of teaching so I failed to send a list of suretors but  
18 I would be happy to detail them here for you.

19 Signing for him would be his brother, Ernie Mattis.  
20 He lives literally a block from where Colin lives. And he  
21 would sign the bond.

22 I'm sorry?

23 THE COURT: Ms. Shroff, when you announce them, can  
24 you tell me a little bit about their employment and earnings?

25 MR. SHROFF: Yes, Your Honor.

1 Ernie I believe is employed and I think he's  
2 remained employed through the COVID crisis. I think his  
3 income is around \$150,000. He lives in his own home along  
4 with his wife and he would certainly be a cosigner for Colin.

5 The next cosigner would be Octavia Driver. She is  
6 his sister through foster care. Colin's mother adopted her  
7 years and years ago. They are as close as siblings could be.  
8 She lives at 538 Logan Street in Brooklyn. She's employed by  
9 Sugaring New York City Hair Salon. She has a salary of  
10 \$31,000 and she's a United States citizen.

11 The next cosigner would be a good friend of  
12 Mr. Mattis. His name -- his last name is I-H-E-O-M-A. He's a  
13 friend of Mr. Mattis's from boarding school. He now works at  
14 Calibrater Health. He makes \$120,000 and, of course, I can  
15 provide to the government his home address and phone number.  
16 I am certain that all of these people are on the line.

17 THE COURT: Ms. Shroff, do you have that suretor's  
18 full name?

19 MR. SHROFF: I do, Your Honor. I-k-e-n-n-a is the  
20 first name, and the last name is I-H-E-O-E-A.

21 THE COURT: Ikenna Iheoea?

22 MR. SHROFF: Yes, Your Honor.

23 At this point, Your Honor, I can add if the Court  
24 wants Samantha Rayborn. She's a suretor. She's a friend of  
25 Colin. She's a lawyer at Collingsworth, but I'm not clear how

1 many suretors the Court would want given the fact that he has  
2 a very tight and close family. They are Octavia and they live  
3 within five blocks of each other. There is -- his sister  
4 lives in the same house as him along with, along with the  
5 other family members that live there.

6 So for all --

7 THE COURT: Let's stop for just a minute. I first  
8 want to make sure that the court reporter is still with us.  
9 Are you okay? You can just nod. Thank you.

10 Now, again, I'm asking if anybody didn't hear me  
11 before but is hearing me now to please mute yourself.

12 Okay. Ms. Shroff, I think I understand your point.  
13 I need Samantha Rayborn's income. Do you know that?

14 MR. SHROFF: Her income, Your Honor, is \$185,000. I  
15 also have another suretor named Ameena Ross and I can  
16 certainly provide her information to the government. I  
17 believe Ms. Ross is also on this line.

18 THE COURT: And can you tell me her employment and  
19 income?

20 MR. SHROFF: I do, Your Honor. I believe she's a  
21 lawyer as well. I do not have her income but I believe it's  
22 in excess of \$150,000.

23 THE COURT: All right. So I think you've addressed  
24 everything except for Lyris and Doreen. Could you go back to  
25 them? Are they going to be suretors also?

1 MR. SHROFF: Yes, Your Honor. Lyris is his sister  
2 who lives along with Colin.

3 THE COURT: She shares his last name?

4 MR. SHROFF: Is Mattis, yes, Your Honor.

5 THE COURT: I'm sorry. Go ahead.

6 MR. SHROFF: She unfortunately was furloughed  
7 because of the COVID pandemic but she's still willing to sign  
8 the bond.

9 THE COURT: And Doreen is also Mattis?

10 MR. SHROFF: Yes, Your Honor, also Mattis.

11 THE COURT: And is she working?

12 MR. SHROFF: No, she is not.

13 THE COURT: Thank you.

14 Does the government wish to be heard further?

15 MR. SHROFF: Your Honor, actually, may I just finish  
16 for just two minutes?

17 THE COURT: Oh, of course. I'm sorry.

18 MS. SHROFF: Just anticipating the government's  
19 argument here, I'm assuming they're going to make the same  
20 argument here that the defendant, according to them, engaged  
21 in completely inappropriate behavior and, for whatever reason,  
22 may not be trusted to follow the conditions of release and I  
23 just wanted to preemptively address that issue here.

24 The bail package that Colin is proposing to the  
25 Court is a bail package that would involve literally his

1 entire family. This young man has nothing but family for his  
2 entire life. His mother recently passed away, less than a  
3 year ago. His father is deceased. As of now, Colin and his  
4 sisters are as closely knit as anybody could be but they are  
5 closer now due to the loss of his mother very recently from  
6 uterine cancer.

7 He's a caretaker for three in his home. There is  
8 nothing at all, again, in Pretrial Services' report that would  
9 give any countenance to the government's arguments here. The  
10 bail conditions proposed by Pretrial Services Officer Lee are  
11 very narrowly tailored to address the risk. She has noted the  
12 risk and then she told this Court as the only other person  
13 that home confinement would reduce the risk and that is what  
14 the Bail Reform Act calls for. The Bail Reform Act does not  
15 call for elimination or a guarantee. What the Bail Reform Act  
16 says is that you should put in place those conditions that can  
17 reasonably assure return to the court and community safety and  
18 given the facts of this case, there is zero chance that there  
19 is any risk of flight.

20 I would ask the Court to consider my arguments and  
21 set bail accordingly. Thank you, Your Honor.

22 THE COURT: Ms. Shroff, before I hear from the  
23 government, I think I neglected to ask you if you sought a  
24 preliminary hearing.

25 MR. SHROFF: I would seek a preliminary hearing at

1 this time and the schedule set by the Court is fine.

2 THE COURT: Thank you. June 12th, 2:00 p.m., for a  
3 preliminary hearing.

4 I'll hear from the government.

5 MR. RICHARDSON: Your Honor, the defendant's bail  
6 package contains a critical assumption and that assumption is  
7 that he is a rational person. The assumption is that a  
8 rational person would not want to hurt their family, would not  
9 want to hurt their friends, and the assumption is that because  
10 of the conditions the Court will impose on that bond, he will  
11 obey the orders of the Court, but Colinford Mattis has not  
12 demonstrated himself to be a rational person.

13 He's a person with an extraordinary career that was  
14 just starting in the law. He attended prestigious  
15 universities, he had some of the best education that you can  
16 have in this country and yet he risked everything, everything,  
17 to drive around in a car with Molotov cocktails attacking  
18 police vehicles. That is not the action of a rational person.  
19 It is not the action of a person who understands the  
20 consequences of their actions.

21 And if the assumption of the Court is that Colinford  
22 Mattis will be prevented from committing further acts of  
23 violence or will return as directed by the Court because of  
24 the consequences that gets renounced onto his family, they  
25 have already claimed his entire family and career --

1 THE COURT: Hang on. Hang on, Counsel.

2 Somebody is ordering desert and it is really  
3 distracting us. If you can hear me, hang up or mute yourself.

4 VOICE: Your Honor, what I'm going to do is mute  
5 everybody's audio and if you can just unmute yourself, that  
6 should filter out a lot of the background noise.

7 THE COURT: All right. Thank you.

8 THE CLERK: I don't know how to unmute though.

9 THE COURT: It looks like a microphone.

10 THE CLERK: Thank you.

11 THE COURT: Go ahead. Thank you.

12 MR. RICHARDSON: Your Honor, can you hear me?

13 THE COURT: Yes, I can.

14 Ms. Shroff, can you hear?

15 MR. SHROFF: Yes, Your Honor.

16 THE COURT: Can the court reporter hear? Okay.

17 And Mr. Mattis, can you hear?

18 Mr. Mattis has to be unmuted.

19 THE DEFENDANT: Okay. Your Honor. Let me take care  
20 of that right now.

21 THE COURT: Mr. Mattis, can you hear now?

22 I can't hear you, Mr. Mattis.

23 THE CLERK: Give me one second, Your Honor. I'm  
24 scrolling through this incredibly long list of participants we  
25 have now.



1           THE COURT: All right. Mr. Mattis can hear us so  
2 why don't we continue with the government's argument because I  
3 don't think he'll be speaking right now anyway.

4           Okay, Mr. Mattis? He's giving us a thumbs up.

5           Go ahead, Counsel.

6           MR. RICHARDSON: Your Honor, just to complete my  
7 argument here, the defendant has enjoyed privileges that  
8 relatively few people in our society have. He's enjoyed an  
9 incredible education, he's enjoyed incredible advantages and  
10 he was at the beginning of a career that was going to be about  
11 the enforcement of law, upholding the principles of law and  
12 justice. And it is difficult for me, frankly, to comprehend  
13 how somebody in his position with his background would do what  
14 he did and I have great difficulty understanding how we can  
15 make any assumption about how a bail package like the one that  
16 was suggested by Ms. Shroff is actually going to protect the  
17 public and is going to ensure that he is going to return to  
18 court as required.

19           In these circumstances, and given the fact that he  
20 was arrested in a vehicle with other Molotov cocktails with  
21 components to create Molotov cocktails and with components  
22 that would allow him to ignite Molotov cocktails and that he  
23 was aiding his co-conspirator, Ms. Rahman, to throw those  
24 Molotov cocktails and then escape, I do not think that there  
25 is any set of conditions that this court could impose that

1 would reasonably assure the safety of the public and that  
2 would reasonably assure that he will return as required and I  
3 do not believe that he can rebut the presumption that he is a  
4 danger to the community and a danger of flight.

5 THE COURT: When you say that you question his  
6 rationality, I understand the argument and I don't mean to  
7 belittle what happened on May 29th and May 30th, I just want  
8 to make sure that I am understanding the scope of your  
9 argument and asking you whether there are other aspects of his  
10 background or the government's information about him that  
11 you're prepared to put on this record other than his behavior  
12 on the night in question that demonstrates his lack of  
13 attention to incentives, rewards and punishment.

14 MR. RICHARDSON: Not at this time, Your Honor.

15 THE COURT: Thank you.

16 Is there anything else you wanted to say, Ms.  
17 Shroff?

18 MR. SHROFF: Only if you have any questions,  
19 Your Honor. I believe that the bail package completely  
20 addresses any concerns at all and I fairly rebutted this  
21 presumption.

22 THE COURT: I appreciate everyone's advocacy and as  
23 I did with Ms. Rahman, I reviewed everything very carefully  
24 earlier this morning and I agree that it is a close question,  
25 but I also believe that one night of behavior is not a basis

1 to reject someone's ability to make rational decisions and  
2 that home detention assured by the plaintiff and the  
3 well-being of his entire family and several high earning  
4 colleagues and friends should be an adequate deterrent for  
5 further danger to the community even assuming the accuracy of  
6 every allegation of the government in its complaint.

7 I am therefore going to set the bond in the same way  
8 I did in Ms. Rahman's case which is to say in the amount of  
9 \$250,000 with the conditions listed in the Pretrial Services  
10 report.

11 Has Mr. Mattis become unmuted?

12 THE DEFENDANT: I can hear you, Your Honor.

13 THE COURT: Yes.

14 THE DEFENDANT: Okay. I can hear you now.

15 THE COURT: Are you understanding everything I'm  
16 saying now?

17 THE DEFENDANT: I do understand, Your Honor, and I  
18 heard everything you said.

19 THE COURT: Okay. So the conditions of the bond are  
20 you are going to report to your Pretrial Services officer  
21 whenever you are directed to. You're not going to leave the  
22 five boroughs of Manhattan or the two counties of Long Island.  
23 You are going to surrender all your travel documents and that  
24 includes any passport and not apply for one. You are going to  
25 be subject to random visits at home and at any job you have by

1 your Pretrial Services officer. You are going to undergo a  
2 mental health evaluation and you are going to participate in  
3 any treatment that's directed by your Pretrial Services  
4 officer.

5 You will be subject to home detention with a  
6 location monitor, meaning a GPS device attached to your body,  
7 and you will only be able to leave your home to appear in  
8 court, visit with your lawyer, go to documented employment,  
9 attend church or whatever religious practice if it has a  
10 service and go to Pretrial Services and any other places your  
11 Pretrial Services officer approves.

12 You'll have no contact with Ms. Rahman, Ms. Shader  
13 or anyone else who is alleged to be a co-conspirator and you  
14 will make an effort to find work and maintain it.

15 I'm told that there are various suretors on the  
16 phone. I'm going to need you to unmute so that you can be  
17 heard and I'm going to call your names, first and foremost, to  
18 find out if you are on the line.

19 I am not going to ask you to place all of your  
20 addresses on the public record if, Ms. Shroff, I have your  
21 commitment that you will provide the Magistrate clericals with  
22 addresses for each suretors so the bond format can be  
23 perfected subsequent to our live proceeding.

24 MR. SHROFF: I have them here, Your Honor, and I'll  
25 e-mail them to Sui-May.

1 THE COURT: Is Lyriss Mattis on the phone? Lyriss  
2 Mattis, are you on the phone, please? Please check to see if  
3 you are muted, Lyriss. Lyriss Mattis, on the phone?

4 Is Octavia Mattis on the phone?

5 THE CLERK: Your Honor? The participants that have  
6 dialed in may not know how to unmute themselves.

7 Your Honor, I have them on the phone and they're  
8 saying the unmute button is not working.

9 THE COURT: Can we fix it? They have to hang up and  
10 dial back.

11 THE CLERK: Lyriss, can you hang up and dial back and  
12 can you make sure you, Octavia and Ernie are together?

13 MS. DRIVER: It's just me and Lyriss together now.

14 THE CLERK: Fine. Call back and then after do you  
15 that, I'll try to get Doreen and everybody else.

16 THE COURT: If there are people on the phone who are  
17 suretors and you heard your names before, Lyriss, Octavia,  
18 Doreen, Ernie, Ikenna Iheoma, Samantha Rayborn and Ameena  
19 Ross, if can you not unmute your phone, hang up and dial in  
20 again.

21 THE CLERK: Your Honor, they can also try pressing  
22 pound sign, 5.

23 THE COURT: You may also try pound 5.

24 MR. SHROFF: Your Honor, I just want to note that  
25 while I'm waiting, I have several people texting and offering

1 to be suretors for Mr. Mattis including yet another lawyer  
2 named Salma Rigby and I can certainly provide her information  
3 also for the Court.

4 THE COURT: I think we're reaching a point of  
5 diminishing return of the scale but you can certainly save  
6 that for Judge Brodie.

7 I'm going to do this again. This is Judge Steven  
8 Gold. I'm asking if Lyris Mattis can hear me.

9 MS. MATTIS: Yes, I can hear you.

10 THE COURT: Thank you.

11 Octavia Mattis?

12 MS. DRIVER: I'm here.

13 THE COURT: Is Doreen Mattis there? No Doreen.  
14 Doreen Mattis, can you hear me? Either press pound 5. If  
15 that doesn't work, hang up and dial into the access code  
16 again.

17 Doreen Mattis, are you there?

18 Is Ernie Mattis there?

19 Is Ikenna Iheoma there?

20 MR. IHEOMA: It's Ikenna Iheoma and, yes, I'm here.

21 THE COURT: I'm sorry, I mispronounced your name,  
22 sir.

23 Is Samantha Rayborn there?

24 MS. RAYBORN: Yes, I'm here.

25 THE COURT: And is that R-A-Y-B-U-R-N?

1 MS. RAYBORN: R-A-Y-B-O-R-N.

2 THE COURT: Thank you.

3 And Ikenna, I-K-E-N-N-A?

4 MR. IHEOMA: Yes, that's my first name. My last  
5 name is spelled I-H-E-O-M-A.

6 THE COURT: Can you say it one more time for me?

7 MR. IHEOMA: My last name is spelled I-H --

8 THE COURT: /TPH0RBGS I have the spelling. How do  
9 you pronounce it?

10 MR. IHEOMA: "Iheoma."

11 THE COURT: Thank you. And Ameen Ross there?

12 MS. ROSS: Yes, I am.

13 THE COURT: Thank you, Ms. Ross.

14 Doreen Mattis, have you rejoined us? Ernie Mattis,  
15 have you rejoined us?

16 THE CLERK: Your Honor, they both are texting me  
17 that they are there but they don't now how to unmute.

18 THE COURT: Text them back to hit pound 5 on their  
19 phone.

20 MR. CROWE: Can you hear me? This is Ernie.

21 THE COURT: Ernie Mattis. I can hear you. This is  
22 Judge Gold, Mr. Mattis.

23 MR. CROWE: Thank you.

24 THE COURT: So right now, we're only missing Doreen,  
25 right? All right. We're going to proceed without Doreen and

1 you can perfect the bond at a subsequent date. All right.

2 MR. SHROFF: Thank you, Your Honor.

3 THE COURT: Lyriss Mattis, Octavia Mattis, Ernie  
4 Mattis, Ikenna Iheoma, Samantha Rayborn and Ameena Ross, the  
5 first thing I'm going to do is ask if you swear or affirm that  
6 the answers you will give me will be the truth, the whole  
7 truth and nothing but, and to tell me how you are connected to  
8 Mr. Mattis, the defendant before the Court.

9 Lyriss Mattis, do you swear or affirm and then who  
10 are you to Curtis?

11 MS. MATTIS: I'm his sister.

12 THE COURT: And do you affirm you will tell the  
13 truth?

14 MS. MATTIS: Yes, I will tell the truth.

15 THE COURT: Octavia, who are you to Curtis and do  
16 you, Colinford, excuse me, and do you so affirm?

17 MS. DRIVER: I'm Colinford's fourth sister, sir, and  
18 I affirm to tell the truth.

19 THE COURT: Ernie, same question.

20 MR. CROWE: I'm his brother and I affirm to tell the  
21 truth, yes.

22 THE COURT: Mr. Ikenna Iheoma?

23 MR. IHEOMA: I'm his closest friend and, yes, I  
24 affirm to tell the truth.

25 THE COURT: Samantha Rayborn, same?



1 MS. RAYBORN: Yes. I am a very good friend and his  
2 partner and I affirm to tell the truth.

3 THE COURT: Ms. Ross?

4 MS. ROSS: I'm his friend from law school and I  
5 affirm to tell the truth.

6 THE COURT: Thank you.

7 Did each of you hear and understand the conditions I  
8 am requiring Colinford Mattis to follow while he is on bond?

9 Lyris Mattis?

10 MS. MATTIS: Yes, I understand.

11 THE COURT: Octavia Mattis?

12 MS. DRIVER: Yes, I understand.

13 THE COURT: Ernie Mattis?

14 MR. CROWE: Yes, Your Honor, I understand.

15 THE COURT: Mr. Iheoma?

16 MR. IHEOMA: Yes, and I understand.

17 THE COURT: Samantha Rayborn?

18 MS. RAYBORN: Yes, and I understand.

19 THE COURT: Ms. Ross?

20 MS. ROSS: Yes, I understand, Your Honor.

21 THE COURT: Now, if he follows all --

22 MS. PHILIPS: Judge?

23 THE COURT: Yes.

24 MS. PHILIPS: Excuse me. Hi, this is Magna  
25 Phillips. I have Doreen Mattis on the phone. She just wasn't

1 able to get her phone to work, but I can try it get you to  
2 hear her through this if you like.

3 THE COURT: Thank you.

4 MS. PHILIPS: Okay. Doreen, can you hear me?

5 MS. CROWE: Yes, I can hear you.

6 THE COURT: I can hear you. This is Judge Gold.

7 Thank you so much.

8 Doreen Mattis, do you swear and affirm to tell the  
9 truth?

10 MS. CROWE: Yes, I am, Your Honor.

11 THE COURT: And Doreen, did you hear and understand  
12 all the conditions of Mr. Colinford's bond that, Mr. Colinford  
13 Mattis' bond that I previously listed?

14 MS. CROWE: Yes, Your Honor.

15 THE COURT: And you're his sister, right?

16 MS. CROWE: Yes, I am.

17 THE COURT: All right. Now all of you, please  
18 listen carefully.

19 If Mr. Mattis follows all of those rules I just  
20 imposed and he comes to court whenever he's required to, you  
21 will each sign his bond or authorize me to and that will be  
22 the end of your responsibilities here, but if Mr. Mattis fails  
23 to follow each and every rule or he fails to come back to  
24 court when he is supposed to, you will each be responsible to  
25 the United States Government for \$250,000. You will owe that

1 money whether you did anything wrong or not. The government  
2 will obtain a judgment against you that will ruin your credit  
3 rating, authorize the government to garnish your wages and  
4 seize your assets. You don't have to sign the bond but that's  
5 what will happen.

6 Lyris Mattis, do you understand and do you still  
7 want to sign the bond?

8 MS. MATTIS: Yes, I understand and I still want to  
9 sign the bond.

10 THE COURT: I've been told that you have been  
11 furloughed during the virus. How were you supporting yourself  
12 before and how much were you earning?

13 MS. MATTIS: I was a corrections officer for the  
14 State of New York and I was earning 60,000.

15 THE COURT: Thank you. And you're on leave? Do you  
16 still have this job or you've lost it?

17 MS. MATTIS: I resigned for two months and then I go  
18 back.

19 THE COURT: Thank you.

20 Octavia Mattis, do you agree to these terms and are  
21 you employed as a hairdresser earning approximately \$30,000 a  
22 year?

23 MS. DRIVER: Yes, I agree, and yes, I am employed.

24 THE COURT: Doreen Mattis, do you agree to these  
25 terms and are you working?

1 MS. CROWE: Yes, I am working and I need to make a  
2 correction. I'm Doreen Crowe, not Mattis.

3 THE COURT: Thank you. How do you spell your last  
4 name?

5 MS. CROWE: C-R-O-W-E.

6 THE COURT: How are you employed and how much do you  
7 earn?

8 MS. CROWE: I'm a special education teacher and I'm  
9 earning \$90,000 a year.

10 THE COURT: I didn't hear the salary. Please repeat  
11 it.

12 MS. CROWE: Okay. I'm a special education teacher  
13 and I make 90,000 a year.

14 THE COURT: 90,000?

15 MS. PHILIPS: That was 90,000, Judge. 90,000.

16 THE COURT: Thank you.

17 Ernie Mattis, do you agree to these terms and how  
18 are you employed and how much do you earn?

19 MR. CROWE: Yes, I want to make a correction also,  
20 Your Honor. I'm Ernest Crowe also, not Mattis. Crowe,  
21 C-R-O-W-E.

22 THE COURT: Thank you, Mr. Crowe.

23 Do you agree to the terms?

24 MR. CROWE: Yes, I do.

25 THE COURT: What do you do for a living and how much

1 do you earn?

2 MR. CROWE: I run a small trucking company and I  
3 earn approximately 150,000 a year.

4 THE COURT: And do you own your own home?

5 MR. CROWE: Yes, I do, sir.

6 THE COURT: Thank you.

7 Mr. Iheoma, do you agree to these terms?

8 MR. IHEOMA: Yes, I do, sir.

9 THE COURT: And how are you employed and how much do  
10 you earn?

11 MR. IHEOMA: My work, I'm in operations for a tech  
12 startup company and I earn 120K a year.

13 THE COURT: Ms. Rayborn, do you agree to these  
14 terms?

15 MS. RAYBORN: Yes. Yes, I do.

16 THE COURT: How are you employed and how much do you  
17 earn?

18 MS. RAYBORN: I'm a lawyer and I earn a base salary  
19 of \$185,000 a year approximately.

20 THE COURT: Ms. Ross, do you agree to these terms?

21 MS. ROSS: Yes, Your Honor.

22 THE COURT: How much do you earn and how do you earn  
23 it?

24 MS. ROSS: I make \$310,000 a year and I'm a managing  
25 director at a financial services association in Washington,

1 D.C.

2 THE COURT: Thank you.

3 May I have each of your permission to sign the bond  
4 on your behalf?

5 Lyris Mattis?

6 MS. MATTIS: Yes.

7 THE COURT: Octavia Mattis?

8 MS. DRIVER: Yes.

9 THE COURT: Doreen Crowe?

10 MS. CROWE: Yes, Your Honor.

11 THE COURT: Ernie Crowe?

12 MR. CROWE: Yes, I do, Your Honor.

13 THE COURT: Ikenna Iheoma?

14 MR. IHEOMA: Yes.

15 THE COURT: Ms. Rayborn?

16 MS. RAYBORN: Yes, Your Honor.

17 THE COURT: Ms. Ross?

18 MS. ROSS: Yes, Your Honor.

19 THE COURT: Colinford Mattis, if you let these  
20 people sign this bond on your behalf and you don't comply with  
21 each of its terms, you will owe -- they will each owe, jointly  
22 and severally, to the United States a quarter of a million  
23 dollars. You will owe that money also, a warrant will issue  
24 for your arrest, you will be found, returned to custody and I  
25 predict you will not be released on bail again. You will be

1 charged with a new offense called bail jumping. You may be  
2 convicted even if you're never convicted of the pending  
3 charge.

4 A bail jumping conviction carries a mandatory prison  
5 term. If you're convicted of bail jumping and the underlying  
6 crime of which you stand accused of today, the sentences you  
7 serve must be consecutive, not concurrent. If you commit a  
8 crime while you are out on bond, that will revoke your bail  
9 and put you back in custody and impose a harsher penalty for  
10 the crime on bond which you committed.

11 Do you understand everything I said?

12 THE DEFENDANT: I understand 100 percent,  
13 Your Honor.

14 THE COURT: Ms. Shroff, may I sign your client's  
15 name to the bond form?

16 MR. SHROFF: Certainly, Your Honor. Thank you.

17 THE COURT: Is there anything else from the  
18 government with respect to Mr. Mattis?

19 MR. RICHARDSON: We'd request a stay of the release  
20 order pending appeal to the District Judge.

21 THE COURT: So ordered.

22 Ms. Shroff?

23 MR. SHROFF: I oppose such relief, Your Honor, but  
24 no, nothing more.

25 THE COURT: I'm going to stay and give the District

1 Judge an opportunity to rule.

2 MR. SHROFF: Thank you.

3 THE COURT: And I will await for her ruling before  
4 final, before signing off on the bond, but I will otherwise  
5 prepare all the other documentation.

6 MR. SHROFF: Your Honor, I just raised for you for  
7 one moment, you do have Mr. Mattis's financial affidavit?

8 THE COURT: Yes, I do. Thank you. I will review it  
9 carefully and I also have a CJA voucher from you and I will  
10 look it over and make a decision once we adjourn. Thank you.

11 MS. SHROFF: Thank you Your Honor.

12 THE COURT: We are adjourned. Thank you very much.  
13 My special thank to our court reporter for muddling through  
14 all the distractions and to our Magistrate Judge clericals who  
15 have been participating and communicating with me by e-mail  
16 throughout in this matter as our proceeding went forward.

17 We thank you counsel for your advocacy and to all of  
18 the suretors together with trying to conduct a court  
19 proceeding under these difficult circumstances.

20 Thank you also to our tech support unit who helped  
21 us get through this.

22 Bye, everybody.

23 MR. RICHARDSON: Thank you, Judge.

24 MS. SHROFF: Thank you, Your Honor.

25 (Matter concluded.)



1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X  
4 UNITED STATES OF AMERICA, : 20-MJ-403(SJB)  
5 Plaintiff, :  
6 -against- : United States Courthouse  
7 UROOJ RAHMAN, : Brooklyn, New York  
8 Defendant. : June 1, 2020  
9 : 2:30 o'clock p.m.  
10 - - - - - X

11 TRANSCRIPT OF ARRAIGNMENT BY VIDEOCONFERENCE  
12 BEFORE THE HONORABLE STEVEN M. GOLD  
13 UNITED STATES MAGISTRATE JUDGE.

14 APPEARANCES:

15 For the Government: RICHARD P. DONOGHUE  
16 United States Attorney  
17 BY: IAN RICHARDSON  
18 JONATHAN E. ALGOR, IV  
19 Assistant United States Attorney  
20 271 Cadman Plaza East  
21 Brooklyn, New York

22 For the Defendant: JOHN BURKE, ESQ.  
23 BENJAMIN YASTER, ESQ.

24 Court Reporter: Charleane M. Heading  
25 225 Cadman Plaza East  
Brooklyn, New York  
(718) 613-2643

Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

1 (All present by videoconference including the  
2 defendant.)

3 THE COURT: All right. I'm going to call the case.  
4 United States of America against Urooj Rahman. If  
5 I'm not pronouncing your name correctly, I apologize.  
6 20-MJ-403.

7 Counsel for the United States, please.

8 MR. RICHARDSON: Good afternoon. Ian Richardson and  
9 Johnny Algor for the United States.

10 MR. BURKE: And good afternoon. For Ms. Rahman,  
11 John Burke.

12 THE COURT: Thank you.

13 And Mr. Burke, do you have an application with  
14 respect to the participation of the Federal Defenders office?

15 MR. BURKE: Yes, Your Honor. What I'm asking the  
16 Court to do is to permit the Federal Defenders to participate  
17 in this proceeding today. They interviewed the family.  
18 They're familiar with the bail package we would like to  
19 present. I think it would be in the best interest of my  
20 clients to have the Federal Defenders be able to do this and  
21 stay on the case for that purpose, Judge. I think it would be  
22 really good for Ms. Rahman and it doesn't really hurt her  
23 interest at all.

24 THE COURT: Who from the Federal Defenders would be  
25 handling that aspect of the matter?

1 MR. BURKE: Judge, Benjamin Yaster.

2 MR. YASTER: Your Honor, this is Benjamin Yaster.

3 I'm present.

4 THE COURT: Thank you.

5 Ms. Rahman, are you able to see and hear me?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And do you speak and understand English?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Thank you.

10 I'd like to address the matter that we just  
11 discussed and put an explanation on the record. Earlier today  
12 in a proceeding held on the record but without the presence of  
13 defense counsel, I was asked to address questions of whether  
14 the office of the federal defender might represent both  
15 Ms. Rahman and Ms. Shader or whether it would be appropriate  
16 for them to have separate counsel.

17 The government stated in very general terms that it  
18 thought that separate counsel was warranted. I asked the  
19 government to submit an ex-parte letter explaining the reasons  
20 for that position which the government did. After I reviewed  
21 that letter which is now docketed as an ex parte filing in  
22 this matter, I agree with its position that separate counsel  
23 for Ms. Rahman and Ms. Shader should be appointed.

24 At that point, the office of the federal defender or  
25 before that point, to be more accurate, Federal Defenders

1 office asked whether it would be acceptable to the Court to  
2 have Mr. Burke represent -- excuse me -- Mr. Burke be assisted  
3 by and joined by Federal Defenders for purposes of making a  
4 bail application today and now Mr. Burke has said that and it  
5 is certainly fine with the Court.

6           Somebody seems to be moving my cursor for me. I  
7 don't know how that is happening, but I'm going to proceed.

8           Sui-May, did you ever rejoin us?

9           All right. We have a court reporter taking  
10 everything down.

11           Okay. With that preface out of the way, I will note  
12 that Ms. Rahman is before the Court pursuant to a warrant that  
13 was issued before today's proceeding.

14           Ms. Rahman, now that you are under arrest, I do want  
15 to make certain that you understand certain rights that you  
16 have.

17           You do have the right to remain silent. You don't  
18 have to make any statements or answer any questions. If you  
19 started to do either, you have the right to stop. If you  
20 choose to remain silent, no one will argue that that choice  
21 can be used as evidence of your guilt, but if you make  
22 statements to anyone other than your attorney, the prosecutor  
23 may well understand and attempt to use it against you.

24           Do you understand me so far?

25           THE DEFENDANT: Yes, Your Honor.

1           THE COURT: Do you also understand what you have  
2 been accused of? The prosecutor has prepared a written  
3 statement of the charge against you and I presume that  
4 Mr. Yaster and Mr. Burke have had a chance to read it to you.  
5 Has somebody reviewed it with you and --

6           A VOICE: -- you want to introduce yourself. We're  
7 doing name, practice area --

8           THE COURT: What I was saying before that  
9 interruption is that if someone reviewed the charge against  
10 you and can you understand what the complaint filed by the  
11 government says?

12          THE DEFENDANT: Yes, Your Honor.

13          THE COURT: You have the right to be defended by an  
14 attorney and to ask the Court to appoint a lawyer to defend  
15 you at no cost to you if you are unable to afford an attorney  
16 with your own funds and that's how Mr. Yaster and Mr. Burke  
17 will eventually come to be your lawyer.

18          Do you understand that?

19          THE DEFENDANT: Yes, Your Honor.

20          THE COURT: Does the defendant seek a preliminary  
21 hearing?

22          MR. BURKE: Yes, Your Honor.

23          THE COURT: June 12th at 2:00 p.m., Mr. Burke. Is  
24 that acceptable?

25          MR. BURKE: Judge, say that date again?

1 THE COURT: June 12, 2:00 p.m.

2 MR. BURKE: That sounds great, Judge.

3 THE COURT: The government has submitted a memo in  
4 support of the detention of Ms. Rahman pending trial. Have  
5 you had a chance to see it, Mr. Burke and Mr. Yaster?

6 MR. BURKE: Yes, Your Honor.

7 MR. YASTER: Yes, Your Honor.

8 THE COURT: Does the government wish to add anything  
9 to its letter?

10 MR. RICHARDSON: No, Your Honor. I think we'll rely  
11 on our submission.

12 THE COURT: I'll hear from the defendant.

13 MR. BURKE: So, Judge, with the Court's permission,  
14 I'm going to let Mr. Yaster address the issue of bail today.  
15 He's intimately familiar with the facts of the case and my  
16 client's family so with the Court's permission, I'm going to  
17 let him proceed regarding any bail applications.

18 THE COURT: Thank you.

19 MR. YASTER: Thank you, Mr. Burke.

20 Thank you, Your Honor.

21 The bail application we're making is very similar to  
22 the bail proposal in the Pretrial Services report. The only  
23 difference is Pretrial Services is recommending home  
24 detention. We don't think home detention is required here.  
25 We think the least restrictive set of conditions would be a

1 moderate bond to be signed by six suretors who are all  
2 relatives or close friends of Ms. Rahman and I believe are on  
3 the line. Then subject to pretrial supervision, in the  
4 specific point of supervision that Pretrial laid out, we don't  
5 think that home detention is required.

6 The reason why we think our bail package is  
7 sufficient, Your Honor, is there's no denying that what is  
8 charged in the complaint is a serious offense, but even  
9 assuming, if those allegations were true, that's not the only  
10 thing that the Court would have to consider. The Court also  
11 needs to consider Ms. Rahman's background and personal  
12 characteristics which speak very highly and positively for her  
13 in and which support releasing her subject to the conditions  
14 that we proposed.

15 If we look at who Ms. Rahman really is, she is more  
16 than the person that the government describes in the complaint  
17 and in the detention memo. She's a 31 year old public  
18 interest lawyer. She works on behalf of impoverished tenants  
19 in the Bronx in Housing court and, previously, she spent her  
20 legal career working on behalf of refugees abroad. She's  
21 dedicated her life and her still very young career to helping  
22 and serving other people. She has no history of convictions  
23 or violence whatsoever other than what the government alleges  
24 to have occurred on Friday night.

25 In fact, this is her first arrest. She also has no

1 history of substance abuse or any other risk factor that would  
2 suggest any propensity for future criminality or failure to  
3 abide by the Court's instructions. Ms. Rahman also comes from  
4 a tight, solid and law abiding family.

5 Ms. Rahman lives with her mother, Arjumand Rahman,  
6 who I believe is on the line and is prepared to sign a bond  
7 today. They live together in a shared south Brooklyn  
8 apartment. Not only do they live together, but Ms. Rahman is  
9 responsible for taking care of her mother who is in his mid  
10 70s and has declining health. Ms. Rahman buys groceries for  
11 her mother, takes care of domestic chores and responsibilities  
12 and oversees her medical treatment and makes sure she goes to  
13 doctors' appointments as scheduled and takes her prescriptions  
14 as she's supposed to. Her involvement in her mother's life is  
15 so significant that I believe, as noted in the Pretrial  
16 Services report, she draws a stipend from a home health care  
17 organization to compensate her for the amount of time she  
18 spends with her mother.

19 I bring all this to the Court's attention to  
20 demonstrate her substantial community ties but also to talk  
21 about the tremendous incentives that Ms. Rahman already has.

22 THE COURT: Somebody is interfering with our  
23 hearing. Please mute yourself.

24 Thank you, Mr. Yaster. I'm sorry for the  
25 interruption.



1 MR. YASTER: No, no problem.

2 What I was going to say, Your Honor, is Ms. Rahman  
3 is responsible for taking care of her mother as I explained  
4 and that creates an enormous incentive by itself for her to  
5 comply with any terms of release that this court imposes  
6 because Ms. Rahman knows, and she knows very powerfully after  
7 having spent close to 72 hours in custody, that if she were to  
8 violate the terms of her release, she just will not be there  
9 for her mother who cannot live alone and who has no other  
10 relatives in the New York area who could step in and do what  
11 Ms. Rahman does.

12 Ms. Rahman also has substantial community ties  
13 beyond her mother. She has a brother and a sister who she's  
14 very close with. Their names are Naseem, that's her brother,  
15 and Shagufta, her sister, and they are also on the line and  
16 are prepared to sign a bond. They're all financially solvent.  
17 Also joining is Shagufta's husband, Michael Burgess, who is,  
18 like his wife and brother-in-law, financially solvent. They  
19 are all prepared to undertake financial risk for Ms. Rahman  
20 because they know her, they trust her, they love her and they  
21 believe that if released, she's going to do right by them in  
22 addition to her mother and herself.

23 The final two suretors, Your Honor, that I think  
24 demonstrate the substantial community ties that Ms. Rahman has  
25 are two friends, both of whom are lawyers who volunteered

1 really without me having to ask to sign a bond for Ms. Rahman.  
2 They, like many other friends who have attempted to get in  
3 contact with me and sign a bond, all know Ms. Rahman and know  
4 that what she's been charged with is anomalous. You know, it  
5 is simply, what the government put in its complaint, is not  
6 the person they know. The person they know is someone who if  
7 released, will follow the rules and do as she's told.

8           So, to summarize, Your Honor, there's nothing in  
9 Ms. Rahman's past that suggests that she has a propensity for  
10 committing crimes or an inability to follow the law. Her  
11 family and friends know this and they've come forward to  
12 support her today because the person who they know is simply  
13 not the person depicted in the government's complaint.

14           Now, as far as the complaint, Your Honor, as I noted  
15 at the outset, there's no denying that what the government is  
16 alleging here is serious conduct. Any time law enforcement is  
17 targeted, that's a severe crime and what the government  
18 describes, you know, we don't want to diminish, but what we do  
19 want to stress, Your Honor, is what the government describes.

20           Before I go on, let me just also emphasize, I think  
21 this can probably go without saying but, obviously, Ms. Rahman  
22 is enjoying the presumption of innocence and we are talking  
23 about the complaint. We're not conceding anything but merely  
24 describing what the government alleges but what the government  
25 alleges, in effect, is a property offense. Of course, the

1 property belongs to the New York Police Department, but it is,  
2 as I read the complaint, it was a parked vehicle that was  
3 already damaged and was not being used and there was no one  
4 inside.

5 That's not to -- in making this point, Your Honor,  
6 the government in its detention memo stresses the severity of  
7 the offense as the basis for this court finding that  
8 Ms. Rahman is too dangerous to be released and while we don't  
9 deny that it's serious, it's not so serious that Ms. Rahman  
10 must be detained especially in light of her background and in  
11 light of the conditions that we propose.

12 So for all those reasons, Your Honor, the bail  
13 package that we think this court can set that represents the  
14 least restrictive set of conditions that would adequately  
15 protect the community and assure Mr. Rahman's appearance is a  
16 moderate to substantial bond to be signed by the six suretors  
17 we brought forward and have her be subject to pretrial  
18 supervision which can include random home visits, of course,  
19 handing over her passport, being subject to mental health  
20 counseling as directed and, otherwise, complying with  
21 Pretrial's request for information and supervision.

22 Thank you.

23 THE COURT: Mr. Yaster, before I hear from the  
24 government, I do believe that I received a list of the  
25 proposed suretors but I'm having a difficult time finding it.

1 Did I get that directly from you or do you know the time when  
2 I would have gotten it? You know what, as we're talking, I  
3 got it. So I'm good.

4 Let me hear the government's response, please.

5 MR. BURKE: Judge, let me just jump in before the  
6 government goes.

7 Obviously, Mr. Yaster has made a very powerful plea  
8 to the Court, but just on behalf of Ms. Rahman, Judge, you  
9 know, she's 31, she's a U.S. citizen, she's a Brooklyn  
10 resident, she lives with her mom, she's never been in trouble  
11 before and, you know, and even though it's a serious charge,  
12 we all know that, serious charge, but there was nobody in that  
13 car and it was vandalized, we believe, prior to this incident.  
14 So we want the Court to keep that in mind.

15 Forgive me for interrupting, Judge, but I just  
16 wanted to point it out for the Court.

17 THE COURT: Not at all, Mr. Burke. I should have  
18 given you an opportunity to supplement. Thank you for your  
19 comment.

20 So, yes, I have the list of proposed suretors and,  
21 Mr. Yaster, it's your understanding that each of those are on  
22 the phone, correct?

23 MR. YASTER: That's correct, Your Honor.

24 THE COURT: Thank you. Let me hear from the  
25 government in rebuttal if they wish to be heard.

1 MR. RICHARDSON: Thank you, Your Honor.

2 We don't believe that the package that the defense  
3 has put forth in this case is sufficient to rebut the  
4 presumption that she is a danger to the community and a risk  
5 of flight.

6 Everyone agrees that this is a very serious offense,  
7 but the information the government submits in its detention  
8 memorandum demonstrates that the defendant, even beyond the  
9 allegations in the complaint, poses a continuing risk of  
10 violence if released in this community.

11 As detailed in the complaint -- as detailed in the  
12 detention memorandum, a witness came forward with a photograph  
13 of the defendant holding a Molotov cocktail in a car that she  
14 was offering to protestors as part of an effort to incite  
15 further violence against the NYPD during the protest on the  
16 street. Given the circumstances and the fact that protestors  
17 are still on the street, the tensions with the police remain  
18 high, we don't believe that this is the time to be releasing  
19 on bond for someone like the defendant into the community.

20 The defendant has stressed her history and  
21 characteristics as the reason why she should be released,  
22 stressing that this is an aberration in her conduct. The  
23 defendant is a trained lawyer. She sought to pursue a career  
24 in which she would uphold the law, but everything that she's  
25 done as detailed in the complaint an contrary to fact. She

1 has thrown away her career in the law when she threw that  
2 Molotov cocktail at a New York City Police Department vehicle.  
3 That is not the action of someone who upholds the law. That  
4 is not the action of someone who follows the law and this  
5 defendant, who had so much to lose, threw that Molotov  
6 cocktail anyhow.

7 In these circumstances, we do not believe that it is  
8 either appropriate or that the defendant can be trusted once  
9 released into the community, no matter how many sureties and  
10 no matter what bond conditions are imposed as part of the  
11 bond.

12 THE COURT: Thank you.

13 MR. BURKE: And, Judge, if I may just be heard very  
14 briefly.

15 THE COURT: Yes.

16 MR. BURKE: This is John Burke again. And forgive  
17 me for not stating this before and, obviously, it goes without  
18 saying, we're all on here on the phone today or on video.

19 Mr. Yaster has made a very strong application but  
20 coupled with that, Your Honor, is the COVID-19 crisis which  
21 we're all aware of, I won't go into it, for a long time,  
22 Judge. You've seen the applications coming to your desk, I'm  
23 sure. The MDC, they've had infections there. Someone died  
24 today who was just recently moved out of the MDC.

25 So that's another very strong factor we're asking

1 the Court to consider when you consider our bail application.  
2 You know, the disease is rampant in these institutions. The  
3 people in federal custody at six times the rate of the  
4 population in the, six times the rate of infection than the  
5 U.S. population. So it's just, really it's just another  
6 reason why you should consider letting Ms. Rahman out with a  
7 bail package that Mr. Yaster has described.

8 THE COURT: Thank you.

9 I very much appreciate the arguments of counsel. I  
10 reviewed the government's detention memo earlier today. I  
11 reviewed the Pretrial Services report earlier today and I have  
12 looked at the list of suretors proposed by Ms. Rahman earlier  
13 today. I have now had the benefit of counsel's arguments as  
14 well.

15 It's not an easy case. The conduct of the defendant  
16 is extremely grave at least as alleged by the government, but  
17 I do take into account the fact that the defendant does not  
18 have a prior record and that she has a number, a large number  
19 of responsible suretors who are ready to vouch for her.

20 What I disagree with concerning the defendant's  
21 application is that home detention with electronic monitoring  
22 is not required. In my judgment, at least for the foreseeable  
23 future it is. We can revisit that depending upon the  
24 defendant's compliance when we rejoin each other on June 12th.

25 So it is the Court's ruling that the defendant may

1 be released subject to each of the conditions listed on the  
2 last page of the Pretrial Services report and upon a \$250,000  
3 bond secured by the signatures of the suretors who are present  
4 with us today.

5 Sui-May, I'm assuming you can follow us. You can  
6 either send an e-mail or speak up.

7 Mr. Yaster, I'm going to ask the question that I  
8 think the answer to is obvious. I'd like to be absolutely  
9 certain. The first proposed suretor is identified as the  
10 defendant's sister and in the e-mail information I have, after  
11 the name appears the number 17 and nothing else. Then there  
12 is a new line that begins with what appears to be an address  
13 and I want to make sure that 17 is the house number and not  
14 the age of the proposed suretor.

15 Can you confirm that for me?

16 MR. YASTER: Confirmed.

17 THE COURT: Thank you. I was concerned at first.

18 Is Shagufta Rahman on the line? You may have to  
19 unmute yourself to be heard. Shagufta Rahman? And can you  
20 hear and understand me? Shagufta Rahman, can you hear and  
21 understand me?

22 I think I heard a "yes." Did other people hear a  
23 "yes"?

24 I'm going to move on. Michael Burgess, are you on  
25 the line and can you hear and understand me? You may have to



1 unmute yourself. Please look at your phone and see if you can  
2 unmute yourself.

3 MR. BURGESS: I'm unmuted. Can you hear me?

4 THE COURT: Yes. Is that Michael Burgess?

5 MR. BURGESS: Yes, I'm Michael Burgess. My wife is  
6 here as well.

7 MS. SHAGUFTA RAHMAN: I'm here too, as well.

8 THE COURT: That's Shagufta Rahman?

9 MS. SHAGUFTA RAHMAN: Yes.

10 THE COURT: Yes? Is Naseem Rahman on the phone?

11 MR. RAHMAN: Yes, Your Honor. I'm here.

12 THE COURT: Is Arjumand Rahman on the phone?

13 MS. ARJUMAND RAHMAN: Yes, I'm here.

14 THE COURT: Naseem, do you speak and understand  
15 English?

16 MR. RAHMAN: Yes. Yes, sir, I do.

17 THE COURT: Arjumand, do you? Arjumand Rahman, do  
18 you speak and understand English?

19 MS. ARJUMAND RAHMAN: Yes.

20 THE COURT: Salmah Rizvi, speak if you're present.

21 MS. RIZVI: Yes, Your Honor, I am.

22 THE COURT: And do you speak and understand English?

23 MS. RIZVI: Yes, I do.

24 THE COURT: Sarah Amin, are you present?

25 MS. AMIN: Yes, Your Honor, I am.

1 THE COURT: Do you speak and understand English?

2 MS. AMIN: Yes, Your Honor.

3 THE COURT: So the way this is going to work is as  
4 follows. In a moment, I am going to ask you all to swear to  
5 tell the truth. Then I have to tell you what signing a bond  
6 means. Then I'm going to ask you individually some questions  
7 about you and your financial background and your connection to  
8 the defendant, Ms. Rahman, and then I am going to ask you if I  
9 have your permission to sign your name on a document that  
10 imposes the obligations I have described upon you. I'm ready  
11 to begin. Please pay close attention.

12 And defendant, Ms. Rahman, can you still hear me and  
13 can you follow me?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Please listen carefully to what your  
16 family and friends are being asked to do.

17 I am going to set a \$250,000 bond with the following  
18 requirements.

19 Ms. Rahman must report to her Pretrial Services  
20 officer whenever she is directed to do so. Ms. Rahman must  
21 surrender any passport she may have to her Pretrial Services  
22 officer and not apply for or pay any travel documents while on  
23 bail release. Ms. Rahman must remain in her home and wear a  
24 GPS device that will alert the government, the Pretrial  
25 Services officer, excuse me, to her whereabouts at all times.

1 She can leave home to appear in court, visit with her lawyer,  
2 participate in employment and, in the alternative, for any  
3 other matters if she has the approval of her Pretrial Services  
4 officer in advance.

5 The Pretrial officer may visit her randomly at home  
6 and if she has employment, at work. Ms. Rahman must maintain  
7 her scheduled mental health treatment and Ms. Rahman may not  
8 have any contact with either co-defendant --

9 THE CLERK: It's muted, Your Honor. It just got  
10 muted.

11 THE COURT: Thank you for your help. Ms. Rahman --  
12 I don't know why it's muting now.

13 Ms. Rahman must continue with her mental health  
14 treatment and avoid any contact with her co-defendant or  
15 Ms. Shader or any anyone else identified by the prosecution as  
16 a co-conspirator or witness except in the company of her  
17 attorney.

18 Let me ask you first, Ms. Rahman, did you understand  
19 everything I said?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, I am going to ask all the suretors  
22 and I am going to call your name: Do you swear that the  
23 information you are going to give the Court will be the truth  
24 and did you hear and understand everything I've said?

25 Michael Burgess?

1 MR. BURGESS: Yes, sir, I do, and I heard and  
2 understood everything you said, sir.

3 THE COURT: Thank you.

4 Shagufta Rahman?

5 MS. SHAGUFTA RAHMAN: Yes, I do, sir, and I  
6 understand everything you said.

7 THE COURT: Naseem Rahman?

8 MR. RAHMAN: Yes, sir, I understand everything you  
9 said and I do.

10 THE COURT: Arjumand Rahman?

11 MS. ARJUMAND RAHMAN: Yes, I understand, I do.

12 THE COURT: Salmah Rizvi?

13 MS. RIZVI: Yes, Your Honor, I do. I understand.

14 THE COURT: Sarah Amin?

15 MS. AMIN: Yes, Your Honor, I do and I understand.

16 THE COURT: If you sign this bond and Ms. Rahman  
17 comes to court whenever she's supposed to and follows all the  
18 rules she's required to follow, other than there will be a  
19 piece of paper with your signature on it or my indication that  
20 you authorized me to sign for you here with the Court, but if  
21 Ms. Rahman doesn't follow each of these rules or she fails to  
22 appear in court as directed, you will each be liable for up to  
23 \$250,000 to the United States.

24 That will empower the government to obtain a  
25 judgment against you, authorize the government to future

1 access, garnish your wages and ruin your credit rating. You  
2 all heard that if Ms. Rahman was going to break the rules of  
3 plea, you are essentially signing as a guarantor of her making  
4 her appearance before the Court and complying with the Court's  
5 rules. You don't have to sign the bond if you don't want to,  
6 but if you do, that's what will happen.

7 Ms. Shagufta Rahman, did you understand and do you  
8 still want to sign the bond?

9 MS. SHAGUFTA RAHMAN: Yes, I do, Your Honor.

10 THE COURT: Michael Burgess?

11 MR. BURGESS: Yes, sir, I do understand and I'm  
12 willing to sign.

13 THE COURT: Naseem Rahman?

14 MR. RAHMAN: Yes, sir, I do and I'm prepared to  
15 sign.

16 THE COURT: Arjumand Rahman?

17 MS. ARJUMAND RAHMAN: Yes, I understand, I do.

18 THE COURT: Salmah Rizvi?

19 THE WITNESS: Yes, Your Honor, I understand and I'm  
20 willing to sign.

21 THE COURT: And Sarah Amin?

22 MS. AMIN: Yes, Your Honor, I understand and I'm  
23 willing to sign.

24 THE COURT: I am going to ask each of you now to  
25 tell me, first, what your relationship is to Ms. Rahman and,

1 second, how you are employed and how much you earn.

2 Shagufta Rahman?

3 MS. SHAGUFTA RAHMAN: Yes, Urooj is my sister, I'm  
4 her older sister, and I'm self-employed right now but I'm  
5 obviously because of COVID not working.

6 THE COURT: And what is your field and how much did  
7 you work before, how much did you work before COVID?

8 MS. SHAGUFTA RAHMAN: Yes. So I'm a Yoga instructor  
9 and I make, and I work part time so I only make around 20,  
10 20,000.

11 THE COURT: Okay. Thank you. That's annually?

12 MS. SHAGUFTA RAHMAN: Yes, annually.

13 THE COURT: Mr. Burgess, your connection and your  
14 work and income.

15 MR. BURGESS: Yes, sir. My connection is Urooj is  
16 my sister-in-law. My income, sir, is 250,000 annually and I  
17 didn't get the third thing you asked me, sir.

18 THE COURT: How do you earn that income? What do  
19 you do?

20 MR. BURGESS: I am a director of free cell  
21 engineering for a fiber security company, sir.

22 THE COURT: Naseem Rahman, your connection, how much  
23 do you earn and how you earn it?

24 MR. RAHMAN: She is my sister and I earn \$140,000 a  
25 year.

1 THE COURT: What do you do for a living?

2 MR. RAHMAN: Oh, I'm sorry. I work as a  
3 manufacturing supervisor.

4 THE COURT: Arjumand Rahman, your connection,  
5 whether you have any income and how you make it.

6 MS. ARJUMAND RAHMAN: Yes. She is my daughter and  
7 she's very caring and loving and she take care of me. She  
8 took groceries, everything she does for me. When I take  
9 her -- she take me to doctor. She's very loving and she's  
10 very caring to everyone, my family.

11 THE COURT: She has no financial security?

12 MR. YASTER: That's correct, Your Honor.

13 MS. ARJUMAND RAHMAN: Can you repeat --

14 THE COURT: That's okay, Ms. Rahman. We got it.

15 Salmah Rizvi, how do you know Ms. Rahman and how do  
16 you earn your money?

17 MS. RIZVI: Urooj Rahman is my best friend and I am  
18 an associate at the law firm Ropes & Gray in Washington, D.C.  
19 I earn \$255,000 a year.

20 THE COURT: Sarah Amin, how do you know the  
21 defendant, how do you earn your money and how much do you  
22 make?

23 MR. AMIN: Your Honor, I'm a dear friend of Urooj  
24 Rahman and her family. I have known them for over 20 years.  
25 I am a attorney for law firm Pietragallo and I earn \$100,000 a

1 year.

2 THE COURT: All right. Are each of you still  
3 prepared to sign the bond and do you authorize me to enter  
4 your name and signature on it?

5 Shagufta Rahman?

6 MS. SHAGUFTA RAHMAN: Yes, sir, I do.

7 THE COURT: Michael Burgess?

8 MR. BURGESS: Yes, sir.

9 THE COURT: I lost my list.

10 Naseem Rahman?

11 MR. RAHMAN: Yes, Your Honor, I do.

12 THE COURT: Arjumand Rahman?

13 MS. ARJUMAND RAHMAN: Yes, sir, I do.

14 THE COURT: Salmah Rizvi?

15 MS. RIZVI: Yes, sir, I do.

16 THE COURT: And Sarah Amin?

17 MS. AMIN: Yes, Your Honor, I do.

18 THE COURT: Thank you.

19 Ms. Rahman, if these people sign this bond and you  
20 don't do everything you're supposed to do and you don't appear  
21 when you're supposed to, they will be jointly and severally  
22 liable to the United States Government for a quarter of  
23 a million dollars. Moreover, you will join them in owing that  
24 money and a warrant will issue for your arrest, you will be  
25 taken into custody again, and I predict you won't be released



1 on bail again. You'll be charged with a new crime called  
2 jumping bail.

3 Bail jumping carries a mandatory prison sentence and  
4 you may be convicted on it even if you're never convicted on  
5 the charge that led to your instant arrest. If you are  
6 convicted of bail jumping and the current charge, the  
7 sentences you serve must be served consecutively and not  
8 concurrently.

9 And if you commit any crime while you're on pretrial  
10 release, that is considered a violation of your bond that  
11 forfeits the money amount and it is grounds to revoke your  
12 bond and remand you to detention again.

13 Is all of that clear?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. Burke, is there anything else you  
16 would have me advise your client?

17 MR. BURKE: Not at this time, Judge.

18 THE COURT: Then, I will -- may I have your  
19 permission, Mr. Burke, to sign your client's name to the bond?

20 MR. BURKE: Absolutely.

21 THE COURT: And we have already scheduled a  
22 preliminary hearing for June 12th and so I have exhausted my  
23 list of matters to raise in this case.

24 Does the government have anything additional?

25 MR. RICHARDSON: Yes, Your Honor. Your Honor, we

1 request the Court stay the order of release so the government  
2 can pursue an appeal of the release order.

3 THE COURT: I will grant that application.

4 Judge Brodie is on duty today. She is aware of this  
5 possibility. She has your detention memo and the complaints  
6 already. I direct you to split up so you can contact  
7 Judge Brodie now and get this appeal scheduled for later  
8 today.

9 MR. RICHARDSON: Understood, Judge. We understand  
10 that the Clerk's Office is saying that Judge Donnelly is the  
11 duty District Judge today.

12 THE COURT: I know but it's Judge Brodie today. I  
13 received an e-mail saying that Judge Brodie is covering for  
14 Judge Donnelly.

15 MR. RICHARDSON: Understood.

16 THE COURT: Thank you.

17 MR. BURKE: Your Honor?

18 THE COURT: Yes, Mr. Burke.

19 MR. BURKE: Yes. I'm just going to -- if we're  
20 going to be appealing on this bail package, I'm just going to  
21 ask the Court to permit Mr. Yaster to stay on with it since he  
22 knows the suretors, again, and he knows the background.

23 THE COURT: So ordered. So ordered.

24 MR. RICHARDSON: Thank you, Your Honor.

25 THE COURT: Thank you.

1 MR. BURKE: That's if he wants to.

2 MR. YASTER: Yes.

3 THE COURT: I can tell by the look on his face which  
4 you can't see he is brimming with enthusiasm at the  
5 opportunity.

6 MR. BURKE: Thank you.

7 THE COURT: I say that tongue in cheek with a little  
8 bit of levity despite the gravity of this proceeding.

9 All right. With that, I am closing the record in  
10 this matter.

11 (Matter concluded.)

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16

17 I certify that the foregoing is a correct transcript from the  
18 record of proceedings in the above-entitled matter.

19

/s/ Charleane M. Heading

June 1, 2020

20

CHARLEANE M. HEADING

DATE

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