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"DED 050228 TRANSCRIPT"

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

-----x  
: UNITED STATES OF AMERICA :  
: vs. : Criminal No. 05-0066  
: WALTER ANDERSON :  
: aka Mark Roth :  
: Defendant :  
: Washington, D.C.  
-----x February 28, 2005

TRANSCRIPT OF RETURN ON BENCH WARRANT  
AND ARRAIGNMENT  
BEFORE THE HONORABLE ALAN KAY  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: SUSAN MENZER, ESQ.  
KAREN KELLY, ESQ.  
Assistant United States Attorney

For the Defendant: JOHN MOUSTAKAS, ESQ.

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1 a plea to the twelve counts in the indictment in which you  
2 have been charged.

3 Now, Mr. Moustakas, you have a copy of the  
4 indictment, sir?

5 MR. MOUSTAKAS: I do, Your Honor.

6 THE MAGISTRATE JUDGE: All right. If you'd take  
7 the plea, Ms. Kay.

8 THE CLERK: Yes, Your Honor. Walter Anderson,  
9 also known as Mark Roth, in Criminal Case Number 2005-66,  
10 in which you are charged in a twelve-count indictment, do  
11 you wish to waive the formal reading of the indictment at  
12 this time and enter a plea?

13 THE MAGISTRATE JUDGE: Mr. Moustakas?

14 MR. MOUSTAKAS: Your Honor, at this time we'd  
15 waive a formal reading of the indictment. Mr. Anderson  
16 enters pleas of not guilty on all twelve counts. He  
17 reserves and asserts all of his constitutional rights,  
18 including those under the 5th and 6th Amendments to the  
19 United States Constitution. He asserts his right to a  
20 Speedy Trial.

21 THE MAGISTRATE JUDGE: Thank you, Mr. Moustakas.  
22 Plea of not guilty will be entered on behalf of  
23 Mr. Anderson to each of the twelve counts in the  
24 indictment.

25 Counsel, Judge Friedman has set a status hearing

1 in this matter for the 11th of this month -- excuse me, of  
2 March, which is a Friday, at 11:30 in the morning.

3 Now, Ms. Menzer, is the Government requesting a  
4 detention hearing in this matter?

5 MS. MENZER: Yes, it is, Your Honor, and we filed  
6 a motion before the Court and we supplied your courtesy  
7 copy with you, it has gone through the process yet. We  
8 also sent it to Mr. Moustakas, before --

9 THE MAGISTRATE JUDGE: All right.

10 MS. MENZER: -- so I don't know whether or not  
11 he's had an opportunity to review it, but we're ready to  
12 proceed.

13 THE MAGISTRATE JUDGE: All right. Mr. Moustakas,  
14 we can set it down tomorrow or the day after, but have you  
15 had a chance to go through that?

16 MR. MOUSTAKAS: We received it at about 1:10  
17 while I was visiting with Mr. Anderson. We're prepared to  
18 -- I'd like to confer with the client, but obviously we'd  
19 like to obtain his release as soon as possible, and let me  
20 just confer with him about whether he'd like to go forward  
21 today.

22 THE MAGISTRATE JUDGE: Well, I'd like you to at  
23 least have an opportunity to go through this.

24 MR. MOUSTAKAS: I have read the motion.

25 THE MAGISTRATE JUDGE: Yes.

1           MR. MOUSTAKAS: I understand that it was prepared  
2 this morning, and asked for a copy of it but was not given  
3 a copy.

4           THE MAGISTRATE JUDGE: I would like an  
5 opportunity to read it too, Mr. Moustakas, if I'm going to  
6 be ruling on it. But anyway.

7           MR. MOUSTAKAS: Let me confer with my client.

8           THE MAGISTRATE JUDGE: Yes. Mr. Moustakas.

9           MR. MOUSTAKAS: Your Honor, we're prepared to go  
10 forward.

11          THE MAGISTRATE JUDGE: All right. Ms. Menzer?

12          MS. MENZER: Your Honor, as we said in our  
13 motion, we are going to submit our evidence. I've got  
14 rather voluminous evidence for the Court to review. And  
15 I'm going to ask the Court, I'm going to give you a copy  
16 of it as well, and what I was going to do was go through it  
17 with you, in terms of each individual characteristic under  
18 3142(g). If the Court would like to take a short recess to  
19 review the evidence first and then we can go through it and  
20 make argument? Whatever the Court sees fit.

21          THE MAGISTRATE JUDGE: You say you're going to  
22 review what's contained in the Government's motion?

23          MS. MENZER: I actually have a number of --

24          THE MAGISTRATE JUDGE: You have live --

25          MS. MENZER: I have no witness, Your Honor. I

1 have all documentary evidence.

2 THE MAGISTRATE JUDGE: Counsel, we have two other  
3 matters that are not going to be too long. Why don't we  
4 pass this matter, give Mr. Moustakas an opportunity perhaps  
5 to more fully review the Government's motion, and we'll  
6 take up this matter at 3:00 o'clock or shortly thereafter.

7 (Whereupon, a brief recess was taken.)

8 THE CLERK: Recalling Criminal Case Number  
9 2005-66, the United States of America versus Walter  
10 Anderson.

11 THE MAGISTRATE JUDGE: Mr. Moustakas, we're  
12 a little late in getting back, but I assume you had an  
13 opportunity to review the Government's motion.

14 MR. MOUSTAKAS: I have, Your Honor.

15 THE MAGISTRATE JUDGE: Very well. Ms. Menzer?

16 MS. MENZER: Thank you, Your Honor. Good  
17 afternoon.

18 Just for the record, I'd like to identify the  
19 people at the Government's table. It's Karen Kelly,  
20 K-e-l-l-y, and she is an attorney with the Department of  
21 Justice, and my agents are at the table if they're allowed  
22 remain, is Thomas Birmingham and Matthew Cooks.

23 THE MAGISTRATE JUDGE: All right. Thank you,  
24 Ms. Menzer.

25 MS. MENZER: First of all, Your Honor, since this

1 has happened rather quickly and I don't know if you've had  
2 a chance to review my motion, I'd like to briefly go  
3 through it.

4 THE MAGISTRATE JUDGE: We scanned it, Ms. Menzer,  
5 but you may go through it.

6 MS. MENZER: Your Honor, the Government is quite  
7 concerned that Mr. Anderson is an extreme flight risk in  
8 this case. The Commissioner of the Internal Revenue  
9 Service actually confirmed this morning that this is the  
10 largest individual tax case in history. According to the  
11 allegations in the indictment, Mr. Anderson has evaded  
12 approximately \$170 million in federal income taxes.

13 THE MAGISTRATE JUDGE: Over what period,  
14 Ms. Menzer?

15 MS. MENZER: From 1995 through 1999. Your Honor,  
16 his history, though, with the Internal Revenue Service has  
17 dated back for over 20 years. Mr. Anderson has failed to  
18 file, he's filed late, he's filed he hasn't paid -- there's  
19 many things, if you look at the indictment, which I'm going  
20 to ask the Court to do before ruling. I'm not going to go  
21 through it with you.

22 THE MAGISTRATE JUDGE: What has the IRS done  
23 since 1995?

24 MS. MENZER: Your Honor, frankly, the IRS civilly  
25 tried to resolve these matters with Mr. Anderson for many,

1 many years, and it's all through the indictment that the  
2 grand jury found. He ignored them. There's allegations in  
3 the indictment that he lied to them. There's allegations  
4 that he submitted false documents to them.

5           And he basically -- one of the things that we've  
6 put in our detention motion about his lies is the fact he  
7 said he lived in Florida. According to his own counsel  
8 in the Superior Court case that evolved out of this,  
9 Mr. Moustakas represented that Mr. Anderson is a lifetime  
10 resident of the District of Columbia. But Mr. Anderson  
11 wrote on his federal income tax returns that he resided in  
12 Florida. I'll proffer to the Court that that address that  
13 he used in Florida, one was the home of a friend, the  
14 second was actually a Mailbox Etc. address. And that's  
15 where he told the IRS that he lived. So just for a  
16 hypothetical, Your Honor, the IRS goes to look for him and  
17 they want to try to collect the money that he owes them.  
18 What do they find? A mailbox.

19           He's used every means possible to try to evade  
20 and obstruct the Internal Revenue Service's ability to  
21 collect taxes from him.

22           And additionally, which I'm going to go through  
23 with the Court, what took so long? It's a very good  
24 question. Since 2002, when Mr. Anderson learned that he  
25 was a target of a grand jury investigation through searches

1 of his home and residence here in the District of Columbia,  
2 Mr. Anderson has sought to obstruct the grand jury. The  
3 Government has a number of exhibits that it's going to  
4 submit to the Court to show you that he's tampered with  
5 witnesses, he's restructured his entire corporate  
6 structure, where before it had two entities, one with the  
7 British Virgin Islands and a Panamanian company stacked on  
8 top of one another. He then, after he learned of this  
9 investigation, set up a whole other series of companies in  
10 the Cayman Islands, in the Bahamas, in Panama, in the  
11 British Virgin Islands -- all these places, Your Honor, are  
12 places where it's very, very difficult for the Government  
13 to get evidence. And he knew it.

14 In fact, some of the letters that I'm going to  
15 submit to the Court, Mr. Anderson actually told witnesses  
16 in those countries, he told them, "Remember what the law  
17 is in your country." He subtly threatened them. "Don't  
18 provide any information to the Government."

19 So that's where we're standing here, Your Honor,  
20 with two main arguments. The first is risk of flight. If  
21 you had a chance to look at the motion -- I'm going to go  
22 over those with you. First of all, if we look just at the  
23 statute -- I'm not going to go through the law with Your  
24 Honor, since I know you're probably much more familiar with  
25 it than I am -- but under the risk of flight part of the

1 statute, we're dealing here with a preponderance of the  
2 evidence. So that's all the Court needs to find, is that  
3 by a preponderance of the evidence that Mr. Anderson will,  
4 one, not return to the Court; and two, which I think is  
5 very important, if you release him, he will not follow the  
6 orders of this Court. And that being, he won't leave the  
7 witnesses alone.

8           There's evidence in here that I'll go through  
9 with Your Honor -- I'm going to give you a notebook so that  
10 you can have it with you and go through it with me, I'm not  
11 going to go through every exhibit, I'm going to assume that  
12 the Court can do that itself -- that shows he has tried,  
13 from March 19, 2002, to control this investigation. He has  
14 done everything in his power to delay and impede the grand  
15 jury from returning an indictment in this case and to find  
16 out what the truth is. And for those reasons, he can't be  
17 trusted.

18           So not only is he an extreme flight risk, he's  
19 not going to listen to the Court. He hasn't listened to  
20 Judges for years, including Judge Bates in this courthouse.

21           So I'm going to ask if we can go through one by  
22 one, Your Honor. Mr. Anderson is charged --

23           THE MAGISTRATE JUDGE: If he was a risk of  
24 flight, why didn't he leave the country?

25           MS. MENZER: Excuse me? First of all --

1 THE MAGISTRATE JUDGE: If he was a risk of  
2 flight, why didn't he leave the country?

3 MS. MENZER: Mr. Anderson has said to many  
4 people, and has continued to say since he learned of this  
5 investigation, that the Government has nothing on him.  
6 And now, he in fact is going to see what the Government  
7 has. See that the Government has been able to get foreign  
8 countries, who historically would not assist law  
9 enforcement officers, we have gotten those countries to  
10 cooperate in this case. We have gotten individuals to  
11 cooperate in this case. We compelled Mr. Anderson to sign  
12 a consent directive, waiving his rights against those  
13 people, to hold them harmless and not sue them in this  
14 country.

15 THE MAGISTRATE JUDGE: Did he do that?

16 MS. MENZER: He did, Your Honor, under -- we had  
17 to fight through it and go through it, and he finally  
18 signed it. However, he notified those people, after he  
19 signed the consent directive, that he was going to see  
20 whether or not their cooperation with the United States  
21 Government was going to violate their law. So he subtly  
22 again said to them, "Well, you know, they made me sign  
23 this. Do what you want, but again, I'm going to sue you if  
24 you do." That was the undertone of what he said. And  
25 Mr. Anderson is not afraid of suing people. He in fact

1 sued one of our witnesses. And he sued her and we had a  
2 hearing before Judge Hogan, on the exact allegation that he  
3 sued her for her to recant her grand jury testimony because  
4 he believed her grand jury testimony was not favorable to  
5 him. And he actually told her that, "Seventy witnesses  
6 have come before in the grand jury, and you are the only  
7 one who testified against me."

8           Mr. Anderson thinks we have nothing. He thinks  
9 this case is a bunch of baloney. Well, now he's going to  
10 see. And Your Honor probably will remember, because I know  
11 you've been involved in it, that Mr. Anderson, each and  
12 every time, has moved to unseal the affidavits in our  
13 searches. And the second search warrant has never been  
14 unsealed, the second search warrant the Government applied  
15 for based upon this obstructive conduct. And the  
16 Government fought hard not to release that information out  
17 of fear that Mr. Anderson would misuse it. He has, and we  
18 have plenty of evidence that he misused it before and he  
19 will continue to do so.

20           If I could just go through it real slowly with  
21 you.

22           THE MAGISTRATE JUDGE: All right.

23           MS. MENZER: First of all, Mr. Anderson is  
24 51 years old.

25           THE MAGISTRATE JUDGE: And what's the

1 significance of that, Ms. Menzer?

2 MS. MENZER: The significance of that is he's  
3 very highly successful, he's been around, he's not an  
4 18-year-old guy that just got himself in trouble.

5 THE MAGISTRATE JUDGE: So you're saying 51 years  
6 of age connotes success, or -- I must have missed something  
7 as I passed through that.

8 MS. MENZER: Well, I'm not saying -- I will say  
9 he's a success, and I think that we all can say that he is  
10 a success. He's a very, very astute and successful  
11 business man. This man made \$450 million in five years.  
12 Four hundred and fifty million dollars. It's mind-boggling  
13 to me. And he decided he wasn't going to pay any income  
14 taxes on that. Either to the federal government or to the  
15 District of Columbia, where he's lived all his life.

16 So he's 51 years old --

17 THE MAGISTRATE JUDGE: What was that five-year  
18 period?

19 MS. MENZER: 1995 to 1999. He made \$450 million.

20 THE MAGISTRATE JUDGE: All right. All right, go  
21 ahead.

22 MS. MENZER: According to the indictment, because  
23 the amount of tax is so high, if the Court considers the  
24 Sentencing Guidelines at the time of sentencing in this  
25 case, Mr. Anderson is looking at approximately 19 to

1 24 years in prison just under the Federal sentence. And  
2 as well, we have six counts for the District of Columbia  
3 of fraud, because he didn't pay any taxes to the District  
4 of Columbia, as well, on this income.

5 THE MAGISTRATE JUDGE: Does the Government have  
6 an estimate of the amount of taxes that he owes?

7 MS. MENZER: In both jurisdictions?

8 THE MAGISTRATE JUDGE: Well ...

9 MS. MENZER: 170 million in federal, approximately  
10 40 million in D.C. income taxes, and at least 250,000 in  
11 use taxes.

12 THE MAGISTRATE JUDGE: All right.

13 MS. MENZER: So 51 again is not just that he's an  
14 intellectual, seasoned businessman, it's also 20 years is  
15 a significant part of his life. And courts have held that  
16 where people are facing sentences so great, that this is  
17 going to deserve great weight from the Court on this  
18 particular issue of nature.

19 Also, if you read the indictment you'll see that  
20 this indictment is all fraud, deceit, lies. That's all he  
21 does. That's what he's done for 20 years. Mr. Anderson  
22 comes up to you and he says, "I promise, Magistrate Judge  
23 Kay, that I will stay here, that I won't do anything." He  
24 can't be trusted. He has lied to so many people over the  
25 last 20 years that the Government's proffering to you that

1 he can't be trusted, just by the nature of the offenses.

2           Look at them. Look what he's done. He set up  
3 this corporation, using an alias. "Mark Roth." The  
4 Government has proof that Mr. Anderson actually wrote the  
5 application which is one of your exhibits. We have a  
6 handwriting expert who will say Mr. Anderson signed the  
7 name "Mark Roth." It was him. There is no Mark Roth.

8           Mr. Anderson has spent the last 15 years,  
9 13 years of his life, saying that there's all these other  
10 people out there that control this corporate structure.  
11 Well, Your Honor, what's taken the Government so long --  
12 you asked that. What's the Government so long is we're  
13 trying to find out were there any other people out there.  
14 And every single person the Government has spoken to, every  
15 single document the Government has looked at, has said the  
16 same thing, "No." The only person is Mr. Anderson. He's  
17 the only one.

18           So, yes, were we sent on a wild goose chase?  
19 Perhaps. But who sent us on that chase? Mr. Anderson.  
20 So if you let him out, that's exactly what he's going to  
21 do again. He has tried to control every step that we've  
22 taken.

23           The fact that he is a savvy businessman is very  
24 important for risk of flight. And why? Mr. Anderson --  
25 I've gone through them, Your Honor. We have about, I'd

1 proffer to the Court maybe 90 boxes of evidence that we've  
2 seized from Mr. Anderson over two search warrants.  
3 Mr. Anderson has hundreds and hundreds and hundreds of  
4 business cards. He has traveled internationally, and I  
5 have a document to show you --

6 THE MAGISTRATE JUDGE: You say he has hundreds  
7 of business --

8 MS. MENZER: Hundreds of business cards of people  
9 from all over the world.

10 THE MAGISTRATE JUDGE: Oh, I see.

11 MS. MENZER: He has made contacts in every  
12 continent in this world.

13 THE MAGISTRATE JUDGE: But there's nothing  
14 intrinsically illegal about having business cards.

15 MS. MENZER: Nothing. Most of the things I'm  
16 saying, there's nothing intrinsically illegal about them.  
17 But the fact is, you need to look at the person that you're  
18 dealing with. You're dealing with a person that uses those  
19 contacts, and he uses people and he uses names. He has  
20 identification, which we'll go through too with you to show  
21 exactly his entire scheme has been to try to trick people,  
22 to trick people. Even his mother. Even his girlfriends.  
23 Even his business associates. Even his lawyers and his  
24 accountants -- they've all been lied to.

25 So how can you expect that he is going to come

1 here, Your Honor, and tell you, and you should accept what  
2 he's going to say that he's going to return to this Court.  
3 He won't. And you know why? Because he's got plenty of  
4 places to go, and he has plenty of money to spend.

5 The Government tried --

6 THE MAGISTRATE JUDGE: Does he have a passport?

7 MS. MENZER: I'm sorry?

8 THE MAGISTRATE JUDGE: Does he have a passport?

9 MS. MENZER: He has many passports.

10 THE MAGISTRATE JUDGE: The same name or a  
11 different name?

12 MS. MENZER: He has different name passports, he  
13 has three days after -- three days after we seized his  
14 first passport on March 19th, 2002, he had a new one.

15 THE MAGISTRATE JUDGE: You say he had a new one  
16 issued by which --

17 MS. MENZER: A United States passport. I'm  
18 saying he has many United States passports, as well as  
19 other jurisdictions. I'm going to proffer to the Court --

20 THE MAGISTRATE JUDGE: How did he get numerous --  
21 using the same name?

22 MS. MENZER: Yes, Your Honor.

23 THE MAGISTRATE JUDGE: And how did he get those?

24 MS. MENZER: He tells them it's lost. I mean,  
25 he did the same thing with everything that we seized, it

1 was lost, stolen. He writes letters and such, and he makes  
2 representations.

3 THE MAGISTRATE JUDGE: But when the Government  
4 seizes a passport, it doesn't advise the passport office  
5 that they've seized --

6 MS. MENZER: Not in this particular circumstance,  
7 because Mr. Anderson was still just under investigation.

8 THE MAGISTRATE JUDGE: I see.

9 MS. MENZER: We do have the passport that he was  
10 traveling on Saturday. We do have that here.

11 But, Your Honor, he had fake passports. He had  
12 an abundance of evidence to show that he knows how, and if  
13 I can, I will get it for you.

14 THE MAGISTRATE JUDGE: All right. Well, no, I'll  
15 accept your representation as an officer of the Court,  
16 Ms. Menzer.

17 MS. MENZER: Well, it's actually because the  
18 agent won't let me ever part with these -- I would like the  
19 Court to look at them. They're his passport here from  
20 British Guyana with Mr. Anderson's picture, and it actually  
21 reflects, if the Court would like to look at it, that he  
22 traveled or someone traveled on this passport. There's  
23 also a registration certificate for British Guyana.  
24 There's copies of that actually in the exhibits, which I'll  
25 give to counsel.

1           Your Honor, I'm going to pass it up so you can  
2 see the frequency of Mr. Anderson's travel in the two other  
3 passports that we seized from his office.

4           Your Honor, also I have copies -- Mr. Anderson  
5 has various visas for Russia. He's got many other travel  
6 documents that are in fact in his own name. And that  
7 Mr. Anderson has spent the last 20 years -- he made all  
8 that money traveling, investing overseas.

9           What is unusual, and you asked me, "Well, that's  
10 not illegal to do that." Of course it's not illegal to  
11 travel around the world and making money in international  
12 affairs and do that type of stuff. But Mr. Anderson is not  
13 the type of person -- Mr. Anderson has a distaste for the  
14 government, there's plenty of evidence of it. I've put it  
15 into the book.

16           THE MAGISTRATE JUDGE: Again, not in and of  
17 itself, an illegal --

18           MS. MENZER: Exactly. Your Honor, views are one  
19 thing. Actions are another. And Mr. Anderson put his  
20 views into action. If I may, I'd like to get some other  
21 evidence.

22           Your Honor, I'm just going to go through a couple  
23 of them with you, but we seized from Mr. Anderson numerous,  
24 numerous books and literature and everything about how to  
25 disappear, how to live life as a fugitive. One of my

1 favorites, "Poof: How to Disappear and Create a New  
2 Identity." "Who Are You?" "How to Legally Obtain a Second  
3 Citizenship and Passport, and Why You Want To." How about,  
4 "The I.D. Forger"?

5           Some of these books, which the Government would  
6 like the Court to note, these books in particular, all of  
7 these books, "Who are You?" "Bulletproof Privacy," "The  
8 I.D. Forger," "Steal This Book," "A Handbook of Survival  
9 in Warfare for the Citizens of Woodstock Nation," it goes  
10 on and on, were all purchased by Mr. Anderson after  
11 March 19th, 2002.

12           THE MAGISTRATE JUDGE: What was significant about  
13 that date?

14           MS. MENZER: That's when he learned he was a  
15 target of this investigation.

16           THE MAGISTRATE JUDGE: I see.

17           MS. MENZER: He had the books before, and then he  
18 even bought more afterwards.

19           This one in particular, "Learn Exactly How to  
20 Travel Like a Ghost, Relocate and Disappear, Not Leave a  
21 Paper Trail, Use the Mails Privately, Buy and Sell Without  
22 a Trace, Make Encrypted Phone Calls, Become Invisible to  
23 Databanks, Live Hid and Happy and Free." Mr. Anderson not  
24 only just read about this. I mean, you can have one or two  
25 books, people maybe have some curiosity, Your Honor, but he

1 had boxes full. And he continued to obtain them.

2           And not only that, as we've alleged in our motion  
3 -- well, actually, it's a fact -- we found documents that  
4 appear that Mr. Anderson was in fact trying to create a new  
5 identity. One of them -- again, the agent will only allow  
6 me to let you look at it -- is a certificate of baptism,  
7 and we talked about it in our motion. And if you look at  
8 it, it's been whited out, kind of hard to see with the  
9 photocopy, but as you look in the light, you can see that  
10 some other names have been whited out and some people --  
11 some other names have been typed in, and we've alleged that  
12 in the motion.

13           The person actually was found whose birth  
14 certificate this is, and knows Mr. Anderson. He worked for  
15 him --

16           THE MAGISTRATE JUDGE: That's a birth  
17 certificate, ostensibly?

18           MS. MENZER: It's a real certificate of baptism.  
19 I didn't even know there was, but there's an Archdiocese  
20 for the Military. And it's for a real person. And for  
21 some reason Mr. Anderson, who met this person in the 1970s,  
22 had this in his files. And it was whited out.

23           THE MAGISTRATE JUDGE: Well, I don't know what it  
24 says now, so --

25           MS. MENZER: Oh, well, now --

1 THE MAGISTRATE JUDGE: If the agent would let me  
2 look at it for a few moments --

3 MS. MENZER: Okay.

4 THE MAGISTRATE JUDGE: -- I promise to give it  
5 back.

6 MS. MENZER: He's very possessive.

7 THE MAGISTRATE JUDGE: Well, this ostensibly  
8 appears to be a certificate of baptism, with everything  
9 whited out.

10 MS. MENZER: Yes, Your Honor. And if you can  
11 hold it up to the light you can see there's some typing --

12 THE MAGISTRATE JUDGE: Underneath, yes.

13 MS. MENZER: Underneath.

14 THE MAGISTRATE JUDGE: And the significance of  
15 this is?

16 MS. MENZER: That why would someone have this?

17 THE MAGISTRATE JUDGE: I don't know.

18 MS. MENZER: Well, Your Honor, I don't know  
19 either. Only Mr. Anderson does, because it was his, but it  
20 looks like to me that here's a person who has books on  
21 making fake identification, and here he is trying, in fact,  
22 to use something. If you read these books, and I have,  
23 they tell you, "Get birth certificates, get driver's  
24 licenses, get any form of identification you can, and then  
25 you can have --" I mean, in today's technology, Your Honor,

1 we all know how easy it is to make travel documents.

2 He has an American Press Association badge with  
3 his picture on it. He has an investigator's template. He  
4 has international driver's license templates that we found  
5 with all of his --

6 THE MAGISTRATE JUDGE: With his name on it?

7 MS. MENZER: Not yet.

8 THE MAGISTRATE JUDGE: I see.

9 MS. MENZER: But his pictures, he had numerous --  
10 some of them, in fact, have his picture on them, some of  
11 them have not been made yet.

12 THE MAGISTRATE JUDGE: I see, so you're saying  
13 they're blanks, ready for use, essentially.

14 MS. MENZER: Ready for use, and he had the means  
15 to do it. Some of them, in fact, he had put his picture  
16 on. And if you read these books, it's exactly what they  
17 teach you to do. So not only do we have someone who is  
18 knowledgeable, we have someone who looks like he was trying  
19 to do that. That's number one.

20 He also even had an INS document that was one of  
21 his girlfriend's, that he had manipulated, changed the name  
22 -- she's from France -- changed the name to William  
23 Prospero, and put his picture instead of hers. And if you  
24 compare the two, which is one of the exhibits that I'll  
25 submit to the Court, if you compare the two you can see

1 that they're the same document. And she actually told the  
2 grand jury that, yes, they had manipulated that document  
3 for him.

4           So the question is, that this man has lived --  
5 he's never -- I was quite surprised, I have to say, in the  
6 Pretrial Services report, to see that he actually gave  
7 where he lived. He's never done it before. He actually  
8 gave his home address. When he was charged in the District  
9 of Columbia Superior Court, and before sentencing, he gave  
10 the mailbox as his address. He told the pre-sentence  
11 report writer that's where he lived. This was the first  
12 time I've ever seen him write down exactly where he lives.

13           THE MAGISTRATE JUDGE: So what is he -- you say  
14 he owns a house in the District of Columbia?

15           MS. MENZER: Well, "owns" I think would be an  
16 inappropriate term. Mr. Anderson purchased that house in  
17 the name of a trust. That piece of property has been  
18 subject to a number of outstanding judgments, loans that  
19 he owns to people, so I don't personally think that  
20 Mr. Anderson owns any of it. We'd have to know from him.  
21 But it appears that it's been pledged numerous times --  
22 according to the records that we have, it's been pledged  
23 numerous times to different individuals in satisfaction of  
24 loans.

25           Mr. Anderson, as we stated in the motion, has

1 over \$40 million in civil judgments against him and Gold &  
2 Appel. Which the Government alleges is actually  
3 Mr. Anderson. And most of the property in the United  
4 States has already -- civil litigants have already tried  
5 to get that property. So there's nothing, nothing in the  
6 United States to keep him here.

7           However, Your Honor, as we stated in our motion,  
8 we attempted to trace a half a billion dollars running  
9 through one account in the Channel Islands. Mr. Anderson  
10 was the sole signatory on the account since the moment it  
11 opened since 1994. He has moved a half a billion dollars  
12 back and forth and all over the place. There's an exhibit  
13 that I've put in the book for you that shows that  
14 \$85 million went to bank accounts outside the United  
15 States, many of which we have been unable to trace. Twenty  
16 million dollars went to two bank accounts in Switzerland  
17 that we have attempted to seek the cooperation of the Swiss  
18 government. The Swiss government made us provide  
19 Mr. Anderson with our request and to give him any  
20 procedural rights that he was due before the information  
21 was released. Afterwards, the Swiss government refused to  
22 provide us with the information.

23           Mr. Anderson, although I explained to his lawyer  
24 that if he had made any filings with respect to the  
25 Government's filing in Switzerland that he was under a

1 legal obligation to notify us of, we've never been notified  
2 what's happened to the \$20 million that went to  
3 Switzerland.

4 Mr. Anderson, almost immediately upon the first  
5 search, had all of his expensive art work, which is listed  
6 in the indictment under the sales tax count, shipped to a  
7 vault in Switzerland. We've since learned that some of  
8 those pieces have been sold. Others, no idea. Absolutely  
9 no idea. It's just a black hole. And those pieces are  
10 worth millions and millions of dollars.

11 Mr. Anderson, through a corporate entity, owns  
12 a 19,000 square foot mansion in Madrid. In 1999, when he  
13 purchased it, he paid --

14 THE MAGISTRATE JUDGE: In his name, or in --?

15 MS. MENZER: In a corporate name, Your Honor.

16 THE MAGISTRATE JUDGE: Corporate name of a  
17 Spanish corporation?

18 MS. MENZER: A Spanish corporation that was a  
19 wholly-owned subsidiary of Gold & Appel.

20 THE MAGISTRATE JUDGE: And does his name show up  
21 on any of the corporate documents?

22 MS. MENZER: Yes, Your Honor, and they're  
23 submitted in the official corporate documents he submitted,  
24 but he's not listed as an owner. He's just, according to  
25 Mr. Anderson, he's always just been the manager. He's an

1 attorney-in-fact. He never has any ownership rights in any  
2 of these pieces of property.

3           So in 1999 -- there's a picture of it I'll tender  
4 to the Court -- that property was approximately, I think,  
5 \$6 million euros. It's now -- we know what happens to real  
6 estate, it's now, a number of years later, according to a  
7 girlfriend of Mr. Anderson's, who was deposed in Spain, no  
8 one lives in that home, and the company still owns it.  
9 She and Mr. Anderson had been romantically involved for,  
10 probably almost fifteen years. She's a trained lawyer, she  
11 lived here in New York for a while. Mr. Anderson invested  
12 another \$20 million, 15-20 million dollars, I don't know  
13 the exact figures, it's in the motion, Your Honor, in other  
14 companies in Spain.

15           One of the things that I found when I was going  
16 through the search records was a map of Spain. And again,  
17 Your Honor's going to say, "Well, there's nothing illegal  
18 about having a map." Well, there's not. But until you  
19 read these books. The first thing it tells you how to live  
20 as an expatriate is to learn where you're going, to learn  
21 how to live in that place and to act like you belong.

22 Mr. Anderson --

23           THE MAGISTRATE JUDGE: That's not very  
24 sophisticated, Ms. Menzer, is it, if you're going to go and  
25 live somewhere else, to get a map and find out where you're

1 going to live?

2 MS. MENZER: No, but it was very interesting that  
3 all the places -- well, Your Honor, all the places that  
4 he's traveled over the years, so that was one of the few  
5 maps that we found. According to his girlfriend in Spain,  
6 other property has been purchased by Mr. Anderson. Other  
7 monies are unaccounted for in Spain. It's a very easy  
8 place for him to go, according to his -- excuse me, I also  
9 forgot to mention, it's in the motion, that Mr. Anderson,  
10 it appears, has sought citizenship in other countries.  
11 There is a citizenship application, handwritten by  
12 Mr. Anderson, for Granada. So it appears -- and many of  
13 these books also explain how to gain citizenship by  
14 marrying someone from the town.

15 THE MAGISTRATE JUDGE: You indicate in your  
16 motion that there have been instances of Mr. Anderson  
17 obstructing justice and intimidating witnesses. You  
18 indicated that he has attempted to intimidate them by suing  
19 them, you say?

20 MS. MENZER: One in particular, yes, Your Honor.

21 THE MAGISTRATE JUDGE: One in particular? Yes.  
22 And these were witnesses who appeared before a grand jury?

23 MS. MENZER: Yes, Your Honor.

24 THE MAGISTRATE JUDGE: I see.

25 MS. MENZER: We have another two witnesses, and

1 I've submitted the evidence in your exhibit book. If I  
2 may, I'll pass it up to the Court.

3 THE MAGISTRATE JUDGE: All right. All right.

4 MS. MENZER: In particular, Your Honor, I'd like  
5 to direct your attention to Government Exhibit 76 --

6 THE MAGISTRATE JUDGE: Does Mr. Moustakas have a  
7 copy of this?

8 MS. MENZER: Yes, he does.

9 THE MAGISTRATE JUDGE: I see. All right.

10 MS. MENZER: Government Exhibit 76 through 83.  
11 76, and to protect -- because there are people here and we  
12 really do not want to disclose who our witnesses are at  
13 this time in public, but 76 through 83 are documents --  
14 with the exception of 81 -- are documents that were  
15 retrieved by Special Agent Cooks from this witness's home.  
16 And when Your Honor has a chance to review them, you will  
17 see the Government has -- first of all, it's very difficult  
18 because as you can tell the documents are half-written in  
19 Chinese. And the Government had to have them translated.  
20 But there are a number of pieces of evidence in there that  
21 suggest that Mr. Anderson and this witness were actually  
22 concocting a story to tell the grand jury.

23 This witness wrote her story over and over and  
24 over again. There are documents in the exhibits that show  
25 that she, on a number of occasions, wrote the laundry list

1 of questions, and in front of the laundry list of questions  
2 was, "Ask Hau," H-A-U, which according to our translation  
3 is "Walt," which is Mr. Anderson. It appears that  
4 Mr. Anderson was coaching her on what to say. It appears  
5 that Mr. Anderson debriefed her after every meeting with  
6 the grand jury.

7           It even appears that Mr. Anderson has a  
8 handwritten note by Mr. Anderson in one of those -- I  
9 think, Your Honor, it's a single exhibit which the  
10 Government proffers Mr. Anderson's handwriting, that  
11 Mr. Anderson told her the things that she should do. One  
12 of them was to ask the grand jury, ask the prosecutors, to  
13 have copies of her former grand jury transcripts before she  
14 went before the grand jury. She had appeared before the  
15 grand jury multiple times. Which is another tactic that  
16 another grand jury witness, another one of Mr. Anderson's  
17 girlfriends, used, which is Government Exhibit 81.

18           Again, another one of Mr. Anderson's girlfriends,  
19 on Exhibit B84 -- we're going to go by B-A -- testified on  
20 her second or third appearance before the grand jury, she  
21 asked to change her testimony when she started, and after  
22 Ms. Kelly questioned her, she admitted that the reason why  
23 she had decided to change her testimony was after she had  
24 discussed it with Mr. Anderson, Mr. Anderson had told her  
25 that she needed to correct her testimony before the grand

1 jury.

2           Numerous times, the other one that has been an  
3 issue of a lot of litigation before the Chief Judge, is a  
4 woman who lives in Virginia, the initials S.R., and she in  
5 fact would not listen to Mr. Anderson's coaching, and she  
6 testified contrary to what he wanted her to do. There are  
7 numerous letters. I'd ask the Court to read them. There  
8 are numerous letters telling her, "These are the facts.  
9 You've got it wrong." Your Honor, that's harassing.  
10 Witnesses should not have to be put through that. And we  
11 tried, the Government tried, we notified Mr. Anderson's  
12 counsel, to tell him, "Stop. Leave her alone." And it  
13 didn't stop. I will proffer that to the Court.

14           So we've got here a person who is facing a lot of  
15 time in jail. A lot of time in jail, Your Honor. And he  
16 never thought this was going to happen.

17           THE MAGISTRATE JUDGE: All right. Now, according  
18 to the Pretrial Services report, Ms. Menzer, I see that  
19 Mr. Anderson is currently on probation, is that correct?

20           MS. MENZER: Yes, Your Honor. Those are the  
21 charges that developed -- in the first search warrant, in  
22 Mr. Anderson's home on March 19th, 2002 -- I've included  
23 the documents in there for the Court to review -- the  
24 Government seized a large quantity of drugs. They seized  
25 drugs, various types of drugs, cocaine, marijuana, Ecstasy,

1 a number of other -- if you look at the DEA-7. They also  
2 seized four stun guns, which are illegal in the District of  
3 Columbia. And a parking boot that, you know, the police  
4 officers use and put on your car. It appeared that someone  
5 -- and it belonged to the Metropolitan Police Department.  
6 So he was charged with those crimes in Superior Court.

7 In addition he was charged after the second  
8 search warrant.

9 THE MAGISTRATE JUDGE: The question I was leading  
10 up to is, is there any indication of his compliance while  
11 on probation? He was on probation from 6/17 of last year,  
12 and will remain on probation until June of this year.

13 MS. MENZER: Your Honor, I have no idea.

14 THE MAGISTRATE JUDGE: All right.

15 MS. MENZER: I know he's on unsupervised  
16 probation.

17 THE MAGISTRATE JUDGE: I see.

18 MS. MENZER: So I don't know.

19 THE MAGISTRATE JUDGE: I see.

20 MS. MENZER: I do know, though, that  
21 Mr. Anderson, the second time that his home was searched,  
22 drugs were found again. And I did notice on the Pretrial  
23 Services Agency's report that Mr. Anderson has indicated  
24 that he never used illegal drugs.

25 In addition to the drugs, Your Honor, there were

1 glass pipes, there were wood pipes, there were -- trying to  
2 think of every other type there were -- but there were --  
3 and he even had a scale. So the fact that, you know, I  
4 don't know how much weight I would put in Mr. Anderson's  
5 statement right here that he's never used illegal drugs.

6 THE MAGISTRATE JUDGE: All right. Well,  
7 obviously everything that you have been discussing is  
8 contained in this book, I assume.

9 MS. MENZER: That's true, Your Honor.

10 THE MAGISTRATE JUDGE: All right. And in the  
11 motion.

12 MS. MENZER: And we feel that -- I've harped on  
13 the risk of flight as well, and pointed out to you a number  
14 of cases that basically -- the intimidating the witnesses,  
15 I think you can consider under risk of flight. I also  
16 would ask the Court to consider the intimidation and the  
17 obstruction of this investigation when you read the  
18 evidence, under the obstruction part of the statute. And  
19 I refer the Court to our footnote 11, asking the Court to  
20 consider detaining him as well on the dangerousness prong  
21 of the bail statute, based upon the obstructive conduct,  
22 the obstruction to the grand jury investigation, as well as  
23 the witness intimidation.

24 As you'll see from the exhibits, many of these  
25 witnesses have been served with grand jury subpoenas, and

1 Mr. Anderson attempted to prevent them from giving  
2 evidence, and also coached them in what to say before the  
3 grand jury in testimony that he believed was favorable to  
4 him. So, for those reasons, and the documents that we've  
5 submitted to the Court, we'd ask that he be detained  
6 pending trial.

7 THE MAGISTRATE JUDGE: All right. Thank you,  
8 Ms. Menzer.

9 Mr. Moustakas, I'll hear from you, sir.

10 MR. MOUSTAKAS: Your Honor, I was wondering if I  
11 can see the exhibits that were handed up to the Court, the  
12 passports. I'd like to view those?

13 I'm going to apologize in advance for what will  
14 be a scattershot response. Obviously, I'm not in a  
15 position to give an eloquent, point by point, response  
16 but I think a response is required here.

17 THE MAGISTRATE JUDGE: Well, I would have  
18 afforded you the opportunity for an eloquent response,  
19 Mr. Moustakas. You were the one who indicated that you  
20 wanted the hearing this afternoon.

21 MR. MOUSTAKAS: Sure. At the expense of my  
22 client's liberty, and so for that reason, Your Honor, as  
23 you can understand, I want to be prepared to say some  
24 things, and if we have evidence to counter this we may ask  
25 for the hearing to be reopened to present that evidence,

1 but it seems to me appropriate, given the very high stake  
2 that Mr. Anderson has in his liberty interests, and  
3 particularly in light of what we've heard today, for me to  
4 make a response and not to allow the innuendo and rumor  
5 and, in my view, information that lacks, in many cases,  
6 any indicia of reliability.

7           Let me say a couple of things, and I'll just sort  
8 of say them by way of free thinking.

9           I want to start with these camouflage passports.  
10 I invite the Court, and I'm sure -- what the Government  
11 doesn't tell you is, it tells you, you know, it tells you  
12 half of what it's learned and it doesn't tell you the other  
13 half of what it's learned. What is remarkable, if you read  
14 the indictment, and if you read their motion, you don't  
15 hear anything about the fact that Gold & Appel, and Iceberg  
16 Transport, two companies, one of which held a number of  
17 assets that grew tremendously with the telecom boom and  
18 fell precipitously with the telecom bust, that those were  
19 owned -- and the Government knows this to a moral and  
20 absolute certainty -- by a trust.

21           First, the trust was formed, as I believe under  
22 the laws of the British Virgin Islands, and later under  
23 the laws of Panama. That trust has, as its grantor,  
24 Mr. Anderson. That trust has, as its trustee, a corporate  
25 entity that appointed Mr. Anderson to manage the funds, as

1 a fund manager. And that's right, he managed those funds  
2 very successfully. And he was paid a fee for that  
3 management, and he declared that fee as income.

4 THE MAGISTRATE JUDGE: Where?

5 MR. MOUSTAKAS: Where?

6 THE MAGISTRATE JUDGE: Yes, where.

7 MR. MOUSTAKAS: He paid federal tax on that, and  
8 he declared -- as I understand --

9 THE MAGISTRATE JUDGE: What time period is this?

10 MR. MOUSTAKAS: During the time period relevant  
11 to the Government's investigation.

12 THE MAGISTRATE JUDGE: 1995 through the present?

13 MR. MOUSTAKAS: Correct.

14 THE MAGISTRATE JUDGE: I see. So Mr. Anderson  
15 did pay taxes, that's what you're representing.

16 MR. MOUSTAKAS: That is correct, on his personal  
17 income. The Government's theory -- but it hasn't sort of  
18 cued you in on this -- is that there is this trust and the  
19 trust should somehow be collapsed and the corporate form  
20 of the trust should be ignored, but what the Government  
21 doesn't tell you is that although he was the grantor of the  
22 trust and although he had some management authority by  
23 virtue of his position with respect to companies that were  
24 owned by the trust, that he was and could never -- he was  
25 never and could never be a beneficiary of the trust. It is

1 undisputed. There is no evidence. The Government can  
2 search anywhere they want till the end of the world, and  
3 they will never find, because it was never the case and it  
4 was never the intention --

5 THE MAGISTRATE JUDGE: All right, so, but --

6 MR. MOUSTAKAS: -- to do anything --

7 THE MAGISTRATE JUDGE: But you're saying that he  
8 was the grantor of the trust or trusts, but he was not the  
9 beneficiary, he was the trustee of the trusts?

10 MR. MOUSTAKAS: There was a company that was, as  
11 I understand it --

12 THE MAGISTRATE JUDGE: Yes, that he managed.  
13 Was the trustee. And so there was no beneficiary to this  
14 trust, is that correct?

15 MR. MOUSTAKAS: There were beneficiaries to the  
16 trust.

17 THE MAGISTRATE JUDGE: There were beneficiaries.  
18 All right. Does the Government know who the beneficiaries  
19 are?

20 MR. MOUSTAKAS: I'm not sure whether the  
21 Government knows who the beneficiaries are or not.

22 THE MAGISTRATE JUDGE: I see. Does anyone know  
23 who the beneficiaries are?

24 MR. MOUSTAKAS: Yes, I believe so. There are  
25 other jurisdictions --

1 THE MAGISTRATE JUDGE: Now, this is not a trial,  
2 so I don't --

3 MR. MOUSTAKAS: I understand that.

4 THE MAGISTRATE JUDGE: So I'm certainly not going  
5 to require of you to tell me who the beneficiaries or if  
6 you feel it would be inappropriate, but would it be  
7 inappropriate to disclose who the beneficiaries are of the  
8 trust?

9 MR. MOUSTAKAS: Court's indulgence. The trust  
10 was set up to have essentially an eleemosynary purpose.

11 THE MAGISTRATE JUDGE: I see. So that there are  
12 eleemosynary institutions out there who are receiving the  
13 benefits of the trust.

14 MR. MOUSTAKAS: That will. There is a date set  
15 forth in the trust at which there'll be a distribution to a  
16 number of causes, not all of which the Government would  
17 consider to be charitable in nature.

18 THE MAGISTRATE JUDGE: Yes. Now, Mr. Moustakas -  
19 - yes.

20 MR. MOUSTAKAS: But some of which are unpopular.

21 THE MAGISTRATE JUDGE: Yes, I don't want to cut  
22 you off. I do have other things, other matters. There are  
23 people who are waiting.

24 But what I need to know -- and this is not a  
25 trial, this is something that Judge Friedman will have to

1 probably address down the road. The Government is moving  
2 to have Mr. Anderson held without bond pending a trial in  
3 this case, based upon a risk of flight.

4 MR. MOUSTAKAS: Right.

5 THE MAGISTRATE JUDGE: And they have alleged to  
6 the Court that he does indeed pose a risk of flight. For  
7 instance, I was shown two passports, all right? Both in  
8 the name of Mr. Anderson. One passport, as I saw -- and I  
9 was only given very limited access to it, you have actually  
10 more time than I had looking at the passports -- but it  
11 appeared to me that the American-issued passports indicated  
12 that Mr. Anderson was born in Virginia, and maybe you can  
13 look at that and confirm that, and I think with a 1953  
14 birth date, is that correct, sir?

15 MR. MOUSTAKAS: You've got it, Judge.

16 THE MAGISTRATE JUDGE: Yes. And if you look at  
17 a Guyanian passport that is there, that shows Mr. Anderson  
18 and his picture in there, and it indicates that he was born  
19 in British Guyana, does it not? With a birth date of 1953.  
20 So obviously he's making himself a little older, I guess  
21 as you become a little older you become more successful,  
22 according to Ms. Menzer. Does it not say that? If you  
23 look at the top line, Mr. Moustakas, does it say, "Place  
24 of birth"?

25 MR. MOUSTAKAS: British Guyana.

1           THE MAGISTRATE JUDGE: Right. So I have an  
2 individual who's coming before this Court, looking to be  
3 released to be compliant with all the conditions, and I see  
4 that he has two passports, and according to the Government  
5 ostensibly has more passports, where he has, to speak  
6 euphemistically, lied. And if you can dress that up in any  
7 other way you want, I'd appreciate hearing about it.

8           MR. MOUSTAKAS: Sure. What I started to talk  
9 about was something called, and I'm sure that the  
10 Government's investigators know about this well, because  
11 you can search it on Google. After the Achile Lauro  
12 incident where you'll remember Mr., I think it was  
13 Klingerhoffer was thrown off the boat --

14           THE MAGISTRATE JUDGE: Yes, I remember that.

15           MR. MOUSTAKAS: -- a handicapped man. You may  
16 also remember a Navy seal or a Navy diver called Robert  
17 Stedham, I believe, who was --

18           THE MAGISTRATE JUDGE: No, I don't remember.

19           MR. MOUSTAKAS: -- thrown on the tarmac in Beirut  
20 back in 1984, during the Reagan administration, that  
21 caused -

22           THE MAGISTRATE JUDGE: Mr. Anderson was involved  
23 in both of those incidents?

24           MR. MOUSTAKAS: No, he was involved in neither of  
25 those, but a lot of international travelers, after that,

1 and a lot of international travelers today, after 9/11,  
2 have engaged -- have gotten what are called "camouflage  
3 passports," and they're passports that you carry so that  
4 if ever there is an incident, you hide your American  
5 citizenship. There is no evidence that this passport's  
6 ever been used. There's no evidence that any of the  
7 identifications that the Government relies on through rumor  
8 and innuendo -- not even rumor -- through innuendo, have  
9 ever been used.

10                 Robert Zizzilige (phonetic)? It is the last name  
11 in the phone book. It is a name that goes back to when  
12 Mr. Anderson lived in a group house in Fairfax County with  
13 a number of other fellows, and they wanted an unlisted  
14 number -- they didn't want an unlisted -- they didn't want  
15 to pay for an unlisted number, so they used this name as  
16 sort of a gag, because it was the last name that you'd find  
17 in the phone book. He's kept it ever since. He only uses  
18 it for his phone account, ever since he first used it.  
19 It's never been used to defraud anyone. He's current on  
20 his Verizon bill.

21                 THE MAGISTRATE JUDGE: So you're telling me that  
22 the Guyanian passport was used because he was flying or  
23 traveling into countries what -- Middle Eastern countries  
24 or countries --

25                 MR. MOUSTAKAS: Sometimes into Asia, sometimes

1 into --

2 THE MAGISTRATE JUDGE: So do the visas reflect  
3 that in the Guyanian passport, as opposed to the two  
4 American passports that also were used extensively, were  
5 they not?

6 MR. MOUSTAKAS: Yes. I think the idea behind it  
7 -- this has never been used. I think the idea of this is  
8 you keep it in the breast pocket. If somebody starts  
9 checking the passengers, you give them this. You don't  
10 give him a visa.

11 THE MAGISTRATE JUDGE: Well, there's no  
12 indication that that was ever used for travel purposes.

13 MR. MOUSTAKAS: I'm not an expert in this. I  
14 don't see --

15 THE MAGISTRATE JUDGE: I understand. So you have  
16 a sophisticated businessman traveling on a plane that  
17 ostensibly might be vulnerable to being hijacked, and so  
18 you show any potential -- or any hijacker who comes upon  
19 you, this unused passport.

20 MR. MOUSTAKAS: Right.

21 THE MAGISTRATE JUDGE: That's a theoretical --

22 MR. MOUSTAKAS: That's the theoretical  
23 justification for -- that's right.

24 Now. With respect to these. These are canceled  
25 passports. And I'm sure that the Government can tell you

1 that the State Department officials or \_\_\_\_\_  
2 officials, whoever it is, I can't remember now, they clip  
3 the passport when it's canceled. You present this  
4 passport, you cannot use this passport, but it's record  
5 of your travel.

6 THE MAGISTRATE JUDGE: What's the significance  
7 of that? I'm not sure I understand.

8 MR. MOUSTAKAS: The significance of it is there  
9 was a representation by the Government that he has multiple  
10 passports. So, in other words, he might have another one  
11 of these. But to the extent he has multiple U.S.  
12 passports, they're canceled passports, and there's  
13 nothing --

14 THE MAGISTRATE JUDGE: No, I understand.

15 MR. MOUSTAKAS: There's nothing improper about  
16 their possession.

17 THE MAGISTRATE JUDGE: I didn't understand that  
18 was the Government's point, that he kept old passports,  
19 therefore he has multiple passports. A canceled passport  
20 is not a valid passport.

21 MR. MOUSTAKAS: Right. And so I wouldn't have  
22 known what the point was.

23 THE MAGISTRATE JUDGE: Yes.

24 MR. MOUSTAKAS: Let me just address, because I  
25 think it's crucially important, the idea that Mr. Anderson

1 may have told people that there's no case against him is  
2 inconsistent with his own actions in this case. He has  
3 understood since way before I've come into this case --  
4 he was represented originally by a law firm called Swidler  
5 Berlin, and by Jim Hamilton, Michael Levy, and Tony Fitch  
6 over at that law firm. As a result of that law firm's  
7 prior corporate transactional work, the criminal lawyers  
8 were ultimately disqualified or were asked to step out of  
9 the case and I was brought into the case at a late date.

10           Now let me just say to you that -- and because  
11 I think it's crucially important. Mr. Fitch, shortly, as  
12 I understand, after one or both of the search warrants,  
13 believed that an arrest might be imminent and explained  
14 that quite clearly to Mr. Anderson, and Mr. Anderson and  
15 Mr. Fitch came to this Court and went to Pretrial Services  
16 and did a work-up so that if there was an arrest there  
17 would be paperwork showing his contacts, verifications, to  
18 minimize the chance that he would be detained.

19           Now, I think Ms. Menzer cannot deny -- we have  
20 been before Judge Hogan on a number of occasions since I've  
21 been in the case, I know on a number of occasions Mr. Fitch  
22 was with Mr. Anderson. A number of unusual -- I should say  
23 non-run-of-the-mill proceedings occurred, sealed  
24 proceedings, some that were completely novel to me. But in  
25 each case, we made good faith arguments. In one case,

1 there were some corporations that were of foreign origin,  
2 over whom the grand jury sought to exercise jurisdiction,  
3 and we recommended to Mr. Anderson that he -- he was  
4 subpoenaed as a custodian of records, and asked to go and  
5 ask those entities to produce documents, and relying on  
6 valid legal authority by our own circuit, we advised him  
7 that he didn't have to comply and that we should engage in  
8 litigation over that, and we had some litigation over  
9 whether these entities had minimum contacts for due process  
10 purposes with the United States, and eventually Judge Hogan  
11 considered the briefs and held a hearing and determined  
12 that those documents should be turned over. Before the  
13 resolution of the hearing, we had sent letters and  
14 explained who we were, our relationship to the custodian,  
15 and we asked everyone to collect the documents so they'd be  
16 ready in the event that we lost. And we did lose. And  
17 then we asked for the documents, we produced them, I  
18 believe very dutifully as we've done with everything else  
19 we've been asked to do in this case.

20           But to equate assertion of one's legal rights as  
21 in any way improper or evidence of obstructive behavior is  
22 outrageous. And I will say another thing that is unfair is  
23 the characterization of the lawsuit that Mr. Anderson  
24 brought against a grand jury witness. A grand jury witness  
25 went into the grand jury. She testified that a particular

1 financial transaction was a gift and not a loan. That has  
2 some legal significance in the Government's eyes, because  
3 it may make it look more likely if it's a gift that he  
4 treated the funds of Gold & Appel as his own. Ostensibly,  
5 that's their theory.

6 That woman told her accountants that she intended  
7 to pay Walt back. Inconsistent with a gift. She executed  
8 a loan document, inconsistent with a gift. So there was a  
9 lot of evidence that it was a loan and not a gift, but  
10 there was some evidence that it was a gift. She said it  
11 was a gift.

12 When she went in the grand jury, her lawyer --  
13 this happens every day -- we're pretending today --  
14 Ms. Menzer is pretending this doesn't happen -- witnesses  
15 go in the grand jury and their lawyers talk to the defense  
16 lawyer and say, "Here's what they asked and here's what I  
17 said." That's not unusual.

18 Carol L. DeBroosh (phonetic) represented this  
19 witness and she made a call, a documented call, we see  
20 e-mails about the call, to Mr. Fitch, saying, "Here's what  
21 my witness said." And for the first time Mr. Anderson  
22 heard that a witness who he believed he had lent money to,  
23 repudiated the loan and subsequently he sued on that. And  
24 here's what Judge Hogan said.

25 "I'm not here to resolve the merits of that, as

1 I've said before. It seems to me that there is a, quote,  
2 'legitimate,' unquote, basis for Gold & Appel, through  
3 Mr. Anderson, to bring a lawsuit against Ms. Rocky --"  
4 Stephanie Rocky, S.R., "to bring a lawsuit against  
5 Ms. Rocky and her company for repayment of these monies  
6 from the evidence that has been produced before this  
7 Court."

8 That's not my words. That's Judge Hogan's words.

9 And so we've got a guy who has known for at  
10 least, well, we're going on three years now, that he is in  
11 the Government's crosshairs. I have told him, when you get  
12 to this level you're going to be indicted. He's understood  
13 that from me, and I believe he understood it from  
14 Mr. Fitch, and he has come for every single Court date that  
15 there has been. He has complied with his probation. He  
16 has never tested positive for drugs.

17 I cannot believe, and I invite you to call the  
18 Judge, and I don't remember his name now, in Superior  
19 Court, but the Judge said this was a minuscule quantity of  
20 drugs. There were two pills of Ecstasy, there was  
21 .020 grams of cocaine, barely a measurable amount. And so  
22 when the Government gets up here and just makes these  
23 statements, I'm dumbfounded because I was -- she wasn't  
24 there. Or if she was, she's not remembering. I was there  
25 at the sentencing hearing where Mr. Anderson got fourteen

1 days home detention from 8:00 p.m. to 8:00 a.m. That's  
2 what the Judge thought about that case. And one more thing  
3 about that case. Those drugs were recovered and the stun  
4 guns and the boot --

5 THE MAGISTRATE JUDGE: And placed on probation,  
6 was he not?

7 MR. MOUSTAKAS: Probation, right. Were recovered  
8 --

9 THE MAGISTRATE JUDGE: Which is still extant.

10 MR. MOUSTAKAS: Right. I'm sorry, I didn't hear  
11 that last. I said, "All right," but I didn't hear you.

12 THE MAGISTRATE JUDGE: No, no, I said and it's  
13 still extant, I mean the --

14 MR. MOUSTAKAS: Correct.

15 THE MAGISTRATE JUDGE: It doesn't terminate until  
16 June.

17 MR. MOUSTAKAS: June, that's right, Judge. And I  
18 will also represent to the Court that during the time  
19 between the sentencing and the -- the guilty plea and the  
20 sentencing, Mr. Anderson had business to conduct in Europe  
21 and asked for and received permission from the Judge, and  
22 of course he returned for sentencing. So one of the  
23 factors you have to look at is what's the history of his  
24 contacts with the Court. And the history of his contacts  
25 with the Court is, he always returns to Court.

1           And he has been under the threat of this  
2 indictment and been spending money to respond to myriad  
3 requests, he's had all of his business documents, including  
4 original share certificates, taken from him, including  
5 original vehicle registrations, including original  
6 passports. There was an implication that somehow he  
7 improperly went to the State Department or the INS and got  
8 a new passport. He wasn't prohibited. They wouldn't  
9 return his passport, just like they wouldn't return any of  
10 his documents. So there's nothing improper about --

11           THE MAGISTRATE JUDGE: When he notified the State  
12 Department that he needed a new passport --

13           MR. MOUSTAKAS: I don't know the answer to your  
14 question.

15           THE MAGISTRATE JUDGE: Well. Do you know what  
16 the question is?

17           MR. MOUSTAKAS: The question is what did he  
18 represent about it.

19           THE MAGISTRATE JUDGE: Yes.

20           MR. MOUSTAKAS: I don't know the answer to that.

21           THE MAGISTRATE JUDGE: That it was lost in the  
22 bowels of the Department of Justice or something like that.  
23 No. Mr. Moustakas, let me just say -- and again, I don't  
24 want to cut you off, but it seems to me I've been given a  
25 lot of material here by the Government to review. You

1 question some of it. It seems, in fairness to you that I  
2 should give you an opportunity to perhaps respond, because  
3 I don't know if I can make a decision this afternoon with  
4 the Government telling me I should look at these documents  
5 before I make a decision. It's a very serious matter. The  
6 threshold, as you well know, with respect to risk of flight  
7 is a preponderance of the evidence, which is a much lower  
8 standard than the clear and convincing that one uses for a  
9 dangerousness situation.

10 I'm going to have to review these documents to  
11 make a determination as to whether or not Mr. Anderson  
12 should be released or not, and then obviously Judge  
13 Friedman will be the Trial Court and will always have an  
14 opportunity to revisit the issue of Mr. Anderson's bond  
15 status.

16 So I would like to give you perhaps a fuller  
17 opportunity, and I'm not suggesting that you file an  
18 extensive brief, but at least highlight those points that  
19 you feel rebut the Government's position that Mr. Anderson  
20 would not prove a risk of flight. And clearly, the  
21 obstruction of justice is a serious concern. And perhaps  
22 you can even make reference to the fact, with respect to  
23 the Guyanian passport that you say Mr. Anderson obtained  
24 for purposes as a ruse in case of all the threats of  
25 hijacking, and you say there's nothing in there, and I'm

1 just wondering how a hijacker, who is not necessarily an  
2 unsophisticated person, would view a passport with nothing  
3 in it if the person was coming from a country other than  
4 Guyana. How would that show up, that he was visiting  
5 another country and doesn't have anything stamped in it.

6 MR. MOUSTAKAS: Well, if I said it I hope I  
7 didn't say it, because I don't think I said it. I said I  
8 don't know how to read one of these things.

9 THE MAGISTRATE JUDGE: I see.

10 MR. MOUSTAKAS: I don't know whether it has  
11 stamps in it or not.

12 THE MAGISTRATE JUDGE: I see. All right.

13 MR. MOUSTAKAS: And I don't know if there are  
14 pre-printed stamps to make it look more realistic or not.

15 THE MAGISTRATE JUDGE: I don't know.

16 MR. MOUSTAKAS: I do want to say one last thing,  
17 because the Government was given an awful lot of time to  
18 make its arguments and I take the Court's point.

19 It was clear to me, frankly, based on what I know  
20 about the standard, and I know about the Court's obligation  
21 to impose the least restrictive conditions available to  
22 assure his appearance, and one of the most obvious is to  
23 take his passport. He's got a history of reporting back to  
24 this Court when he was under these very same restrictive  
25 conditions. He's complied with Court orders before. So

1 when the Government gets up here and says he disrespects  
2 the Court, it's an incendiary remark, intended to incite --  
3 and fortunately, it's not going to incite you -- but it has  
4 that purpose, to tell a Judge, "This guy doesn't have any  
5 respect for the Court." The evidence is clear that he has  
6 respect for the Court, because he has always returned to  
7 both Courts that he's been involved in.

8           But I have to say, what's remarkable is, these  
9 drugs that -- this unbelievable quantity -- were recovered  
10 in March of 2002, and Mr. Anderson was not processed on  
11 those drugs until December 24th, Christmas Eve, of 2003.  
12 I've never heard -- I practiced in that Court as an  
13 Assistant United States Attorney, I've never heard of an  
14 18-month delay between the time the drugs are recovered and  
15 the time that they are processed and a case is brought.  
16 And I submit to you, if anything it shows the Government's  
17 spite in this case, and not Mr. Anderson's disrespect of  
18 the system.

19           THE MAGISTRATE JUDGE: "Spite" in the drug  
20 charge, you're saying.

21           MR. MOUSTAKAS: Bringing those drug charges  
22 18 months or what -- I haven't done the calculation, but  
23 very unusual circumstances, Judge. Very unusual.

24           The other thing about this obstructive conduct  
25 is, we've indicated with respect to one of the most

1 important aspects what Judge Hogan has already said about  
2 the legitimacy of that lawsuit and I've already talked, at  
3 least anecdotally about the idea that it is very common in  
4 a pre-indictment investigation for defense attorneys to try  
5 to talk to witnesses and find out what the witnesses have  
6 said. There's nothing wrong with that. And to try to  
7 convert that into something wrong, is to further attempt to  
8 erode every protection Defendants have in these kinds of  
9 proceedings.

10           With respect to the obstructive conduct alleged,  
11 which we think we've dealt with here, I do have to say that  
12 it is hard for me to understand in a historical tax case  
13 where they've made their indictment, they've got their  
14 documents, they have 90 boxes -- we're taught, when we were  
15 litigating associates in the law firm, that a box of  
16 documents is about 3,000 documents, 2500 to 3,000  
17 documents. So we're talking about an astronomical number  
18 of documents. We have produced another several tens of  
19 thousands of documents through subpoenas. We know that  
20 accountants have produced boxes and boxes of documents. We  
21 know that the Swidler Berlin law firm -- hold your breath,  
22 because you'll find this unbelievable -- that the Swidler  
23 Berlin law firm was asked to turn over its criminal files,  
24 including all memoranda that it drafted to Mr. Anderson,  
25 all attorney client privilege material, everything.

1           And so the idea that the Government has been  
2 deprived of access to information and that we've somehow  
3 been obstructive when it has all the documents, it's like  
4 pulling teeth to get our documents back. We once said,  
5 "Make us a copy of all the documents, send them to us, so  
6 we can conduct our business." Didn't happen. So the idea  
7 that there's some obstruction that's going to happen going  
8 forward, that's going to affect this case, is hard to  
9 imagine.

10           And the final thing, and the reason I think that  
11 the Court can, without any further information -- and the  
12 Court is welcome to look at those -- but what the Court  
13 heard here today and what I believe I'm proffering in good  
14 faith to the Court, there is no basis for believing that  
15 holding this man on this offense, which involves no  
16 dangerousness, no one being hurt, no one being threatened,  
17 no one being told they're going to be killed, and no risk  
18 of flight, because all the evidence is contrary, all the  
19 evidence is of return, that the final sort of piece of this  
20 that there is some kind of obstruction doesn't make sense  
21 because Mr. Anderson isn't in a position to affect the  
22 historical evidence in this case. And if he does, Your  
23 Honor can say, "Mr. Anderson, I am now ordering you, you  
24 are not to have contact with the following people, and  
25 you're to stay away from them, and if you do have contact

1 with them, I will revisit the bond decision and I will  
2 revoke your conditions of release."

3           But in a case like this, with the profile this  
4 presents with, and I will tell you that since the search  
5 warrant, which they use as marking the time from which he  
6 knew he was under investigation, he has traveled more than  
7 30 times internationally, and returned every time. And so  
8 when the Government tried to cutely suggest that he didn't  
9 really understand that this was a serious case until now,  
10 that's just nonsense.

11           And if I can just take one moment to confer with  
12 my client before I conclude for now, but if the Court  
13 insists on deferring decision, then we will ask to come  
14 back and with a more substantial written proffer. But if  
15 I might just take a moment?

16           THE MAGISTRATE JUDGE: Surely.

17           MR. MOUSTAKAS: Mr. Anderson --

18           THE MAGISTRATE JUDGE: Would you bear with me for  
19 a second, Mr. Moustakas.

20           MR. MOUSTAKAS: Sure.

21           THE MAGISTRATE JUDGE: All right, go ahead.  
22 I had another matter that was scheduled earlier, and I  
23 understand it's been canceled or moved, so if you want to  
24 go ahead, you may proceed.

25           MR. MOUSTAKAS: Thank you, Your Honor.

1 Mr. Anderson informs he's been 60 hours without a shower,  
2 that he had to go to the infirmary on two occasions to get  
3 antibiotics. The Government has his passport. I would ask  
4 that you release Mr. Anderson to return upon a date  
5 certain, two days, if the Court wants to give us two days  
6 to have a brief filed, we'll work night and day to have  
7 that done.

8 I'd like to see my client released. I think he's  
9 entitled to release, at least pending the continuation of  
10 this hearing. I think he's earned that by virtue of the  
11 many returns he's made while under investigation, by his  
12 compliance with Judge Hogan's orders in the grand jury  
13 matters, with his faithful compliance with all the rules of  
14 his probation in the Superior Court case, with his negative  
15 drug tests on every occasion that he was asked to take a  
16 drug test in that case, and I would ask that the Court give  
17 him an opportunity to demonstrate to you that,  
18 notwithstanding the fact that he may feel animosity towards  
19 the government and notwithstanding the fact that he may  
20 have a difference of opinion with the government over the  
21 facts of this case, and that he has obviously a vested  
22 interest in the case, and will return to vigorously defend  
23 it. Defend against it.

24 THE MAGISTRATE JUDGE: Thank you. Ms. Menzer?

25 MS. MENZER: Your Honor, I'm just going to

1 briefly respond because as I've stated in my motion, this  
2 is not supposed to be a trial. We're not supposed to get  
3 into the matter to that. Just as Judge Hogan found --  
4 Mr. Moustakas quoted him over and over and over again about  
5 that hearing -- Mr. Moustakas didn't tell you something.  
6 Judge Hogan found that Mr. Anderson, what he had done to  
7 Ms. Rocky, was considered harassment. By a preponderance  
8 standard. The same standard that you have in this  
9 courtroom today. That's number one. He didn't tell you  
10 that.

11 I'm not going to make this into a trial. I'm not  
12 going to go through all the evidence with you. We feel  
13 that our evidence supports asking this Court to detain  
14 Mr. Anderson on a risk of flight, just to point out,  
15 because I'm going to give it back to the Clerk because I  
16 realize I didn't let you see it long enough, but inside the  
17 Guyana passport is a registration certificate, with a  
18 picture of Mr. Anderson.

19 THE MAGISTRATE JUDGE: I saw that.

20 MS. MENZER: And it lists him living in  
21 Washington, D.C. So I don't know how this is going to  
22 deter a terrorist, thinking that he's not an American.  
23 Just look at him. I mean, I hate to say that, but that's  
24 what -- you know, I mean, terrorists, I understand they're  
25 gathering all the terrorists, I mean, he has - it says

1 right in here that he's living in America. Washington,  
2 D.C. At an address, by the way, Your Honor, we've pointed  
3 out, doesn't even exist.

4           These are phonies. They're phonies because he's  
5 going to use them. He has no respect. Yes. Has he come  
6 to Court? Of course he's come to Court. Grudgingly. Do  
7 you know what's in his calendar for the day that he was  
8 compelled to give handwriting exemplars? He's written,  
9 "Extortion day." When he came to review the search records  
10 at the IRS, "Review stolen material." When he told Judge  
11 Hogan, when he was supposed to be before the grand jury,  
12 that he was traveling in London, the Government has  
13 submitted evidence to show you that he was in the British  
14 Virgin Islands.

15           So, Your Honor, he has no respect for this Court.  
16 When Judge Bates ordered him to say who is Gold & Appel, he  
17 wouldn't do it. Now he's come up with this trust theory?  
18 Your Honor, we're not going to get into the details, but I  
19 will assure the Court that this has happened after the  
20 March 19th, 2002, search.

21           So, Your Honor, this isn't something that the  
22 Court should bother with. What the Court needs to look at  
23 is the man, and what he has done and what he has the  
24 ability to do. He has investments in companies worth  
25 millions and millions and millions of dollars. That he

1 could sell in a snap of a finger. He's got a place to  
2 live, he's got people to live with and to take care of him  
3 and to enjoy the rest of his life outside the United States  
4 of America, and that's what he's been planning to do.

5           So again, I'd ask the Court to review all the  
6 documents.

7           MR. MOUSTAKAS: Just to respond. Mr. Anderson  
8 tells me that after he went to the British Virgin Islands  
9 on that trip he went to London and came back to D.C. He  
10 went to the British Virgin Islands to meet with counsel.  
11 I don't think there's anything improper about that. It is  
12 true that he was traveling in London. I don't know why he  
13 didn't mention that he was traveling also in the BVI, but I  
14 don't see that that has any merit. He had a preexisting  
15 business trip scheduled, and maybe he didn't want the  
16 Government to know that he was conferring with counsel  
17 somewhere, but he traveled to London and, if necessary,  
18 we'll produce evidence to that effect.

19           There are a number of ways that the Government --  
20 and the Government's entitled absolutely to have its day in  
21 Court and have an opportunity to present its evidence to a  
22 jury and make sure that that opportunity isn't squandered  
23 by someone fleeing the jurisdiction. I don't quibble with  
24 that. That's obviously correct.

25           By the same token, when you measure the man,

1 measure him on his conduct in this case. As I say, he's  
2 returned time and time again, even though at the same time  
3 he's come to the Pretrial Services Agency and filled out  
4 paperwork in anticipation of the very indictment that  
5 ultimately took place. And so with that, I have to say  
6 that I think that given the legal requirement that the  
7 least restrictive conditions of release be imposed, and  
8 taking the passport or electronic monitoring, or now they  
9 have the GPS system, there are a number of ways that the  
10 Government can assure, if it be telephone, you know,  
11 monitoring daily, there are numerous ways short of putting  
12 this man in the D.C. Jail for the next however long, and I  
13 don't know how I am supposed to litigate on his behalf,  
14 and I suspect that this has something to do with the  
15 Government's motion for detention, a case of this  
16 remarkable complexity -- Ms. Menzer comes up here and says,  
17 "You know, I don't want to have a trial on this, I just  
18 want you to look at all my evidence."

19 Well, I mean, that's like a trial without any of  
20 the arguments. You know, "Here, look at the documents that  
21 I would admit if this were a trial, but let's not have the  
22 other side have a chance to respond."

23 So I appreciate that the Court wants to give me  
24 an opportunity to respond. I submit, Your Honor, with all  
25 respect that this is not a close case on risk of flight

1 because he has such a history of returning and there are so  
2 many ways to assure that he does return. And with respect  
3 to obstruction, there are so many ways for this Court to  
4 craft an order that is unambiguous about what he can and  
5 cannot do, and I assure you that so long as I'm standing at  
6 this podium he will do everything that's required of him to  
7 make himself available to me and to follow your rules so  
8 that I can litigate this case vigorously on his behalf,  
9 because I don't know how I will go through 90 boxes of  
10 documents with him in jail. And I understand there are  
11 cases where people do have 90 boxes of documents and they  
12 have to be defended, notwithstanding the fact that they're  
13 in jail. But those cases, I submit, are drug conspiracies,  
14 cases involving presumptive dangerousness under the federal  
15 statutes. This is not that case.

16 We are entitled to release. I ask the Court to  
17 give us release until Friday and bring us back on Friday  
18 for a continuation of this hearing.

19 Thanks, Judge.

20 THE MAGISTRATE JUDGE: Counsel, as I indicated,  
21 I'd like to go over these documents. I'd like to go over  
22 more carefully the Government's motion. I had a few  
23 minutes to scan it. These are serious allegations made by  
24 the Government in terms of Mr. Anderson's risk of flight.  
25 I would like to give you, Mr. Moustakas, additional time.

1 I would like if maybe you could get something in writing,  
2 or even if it's just a cursory outline, if you could get  
3 that to me by close of business on Wednesday.

4 I'd like to set this down for a continuation at  
5 which time I'll make a determination, on Thursday at  
6 2:00 o'clock, if that's convenient for Government counsel?  
7 Is that correct?

8 MS. MENZER: (Inaudible) Your Honor.

9 THE MAGISTRATE JUDGE: All right. And  
10 Mr. Moustakas?

11 But in the interim, I'm going to direct that  
12 Mr. Anderson be held without bond pending the Court's  
13 determination. I'm taking this matter under advisement.  
14 Thank you, counsel. Nothing further.

15 MR. MOUSTAKAS: Your Honor, if I may suggest one  
16 other matter --

17 THE MAGISTRATE JUDGE: Now, I would be prepared  
18 under the circumstances, Mr. Moustakas, if you made a  
19 motion to have Mr. Anderson placed at CTF, which may be --

20 MR. MOUSTAKAS: I will make that request. I am  
21 told now that Mr. Anderson has some business dealings which  
22 require him to make some telephone calls, and he hasn't  
23 been given access to a phone. He has employees who are  
24 going to lose their jobs or be imperiled if they're not  
25 able to do that, so he would like -- and he went about 16

1 hours without water. He'd like to be assured that he'll  
2 have access to water, a shower, and telephone so he can  
3 continue to conduct his business.

4 THE MAGISTRATE JUDGE: I'll make a directive that  
5 he be placed in the CTF. You know what I mean by that?

6 MR. MOUSTAKAS: I do know what you mean, the  
7 Central Treatment Facility.

8 THE MAGISTRATE JUDGE: Yes. And whatever rights  
9 he has, obviously -- and I would assume that he would have  
10 access to water, if nothing else, in this courthouse,  
11 Mr. Moustakas. But just to be on the safe side, there'll  
12 be a notation on the commitment order, but a brief order to  
13 that effect which I will sign as soon as you get it, you  
14 can fax it to me, Ms. Kay will give you the fax number,  
15 that will assure his placement over there. And we'll see  
16 you at 2:00 o'clock on Thursday.

17 Thank you, counsel.

18 (Whereupon, proceedings were concluded.)

19  
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