

IN THE CIRCUIT COURT OF THE  
FIRST JUDICIAL CIRCUIT, IN AND FOR  
WALTON COUNTY, FLORIDA

CASE NO.: 25CF123  
FELONY

STATE OF FLORIDA,  
Plaintiff,

v.

JOSEPH TURNER,  
Defendant,

\_\_\_\_\_ /

**DEFENDANT'S NINTH RECIPROCAL DISCOVERY SUBMISSION PURSUANT TO FL.  
R. Cr. P. 3.220(d)**

COMES NOW the Defendant, JOSEPH TURNER, by and through his undersigned  
Counsel and files this Reciprocal Discovery Submission Pursuant to Fl. R. Cr. P. 3.220:

**Documents:**

1. Order granting a motion to dismiss the federal cases against Walton County and Donna Johns that references the fact that Joseph Turner is in a similar position to dismiss his own case, although he was served later than the first two defendants leaving him more time to file. Interestingly, the federal motions were granted even though the judge believed that the device in question was a phone that actually belonged to Charles Gallagher as opposed to an iPad that belonged to Walton County.
2. Transcript of proceedings on April 7, 2026, wherein ASA Joshua Mitchell stated on the record that he had no evidence that any of the messages were intercepted contemporaneously.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via e-filing to the Office of the State Attorney, [SAO2\\_leon@leoncountyfl.gov](mailto:SAO2_leon@leoncountyfl.gov), this 19th day of May, 2026.



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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**TERESA LOWERY,**

**Plaintiff,**

**v.**

**Case No. 3:26-cv-790-TKW-ZCB**

**WALTON COUNTY,  
FLORIDA, et al.,**

**Defendants.**

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**ORDER DISMISSING FEDERAL CLAIMS AND  
REMANDING STATE LAW CLAIMS TO STATE COURT**

This case is before the Court based on the motions to dismiss filed by Defendants Walton County (Doc. 32) and Donna Johns (Doc. 33). Upon due consideration of the motions, Plaintiff's responses in opposition (Docs. 42, 43), and the amended complaint (Doc. 26), the Court finds that the federal claims against the County are due to be dismissed and the state law claims are due to be remanded to state court.

**Facts**

Plaintiff has worked for the County since 2018. She currently holds the position of Commissioner's Aide.

On November 17, 2023, Plaintiff had a “private text message exchange” with a friend and former County employee, Charles Galloway. The texts were critical of a Walton County Commissioner (Defendant Johns), the Walton County Administrator (Defendant Quinn Robertson), and the Assistant Deputy County Administrator (Defendant Joseph Turner).

At some point (the amended complaint does not say when), someone from the County (the amended complaint does not say who)<sup>1</sup> “physically [took] photographs” of the text messages between Plaintiff and Galloway—presumably off of Galloway’s phone.<sup>2</sup> The photographs were provided to Robertson and/or Turner, who sent them to a private citizen, Suzanne Harris, who sent them to all of the county commissioners.

Plaintiff first became aware that someone had accessed the text messages between her and Galloway on December 17, 2023, when a county commissioner showed her the photograph of the messages that he was sent by Harris. Two days

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<sup>1</sup> The amended complaint implies that it was the County’s Technology and Media manager, Jason Cook. *See* Doc. 26 at ¶97 (“Cook is the person who actually procured the private text messages and provided them to Robertson and/or Turner.”).

<sup>2</sup> The amended complaint does not clearly identify what physical object was photographed, but the parties seem to agree that it was Galloway’s phone. Plaintiff asserts in her response to the County’s motion to dismiss that the photographs were “of messages from a former employee’s County device.” Doc. 43 at 9; *see also id.* at 10 (“[T]he messages were first unlawfully accessed by County agents through photography of a device within the County’s control ...”). Similarly, the County construes the amended complaint to be alleging that “the text messages were retrieved from a former county employee’s county device, not from Plaintiff’s device.” Doc. 32 at 13.

later, on December 19, Johns read some of the text messages aloud at a County Commission meeting and insinuated that Plaintiff engaged in criminal conduct with respect to the text messages.

In January 2024, Johns placed an item on the Commission's draft agenda requesting disciplinary action against Plaintiff related to the text messages. The agenda item was pulled from the agenda by the Commission Chairman and was not acted on.

Plaintiff claims that she has been "repeatedly harassed and defamed on multiple social media sites" as a result of Johns' actions at the December 19 Commission meeting, although the amended complaint does not identify who harassed or defamed her. She also claims that her supervisor has received "harassing requests calling for Plaintiff's termination" and that Johns sent emails to the County's Director of Human Resources "demanding that Plaintiff be disciplined or terminated," but the amended complaint does not allege that Plaintiff suffered any adverse employment action as a result of those efforts.

### **Procedural Background**

On December 12, 2025, Plaintiff filed suit against the County, Johns, Robertson, and Turner in state court. The only federal claim asserted in the ten-count original complaint was a Fourth Amendment "unreasonable search and seizure" claim under 42 U.S.C. §1983.

In February 2026, the County removed the case to this Court based on federal question jurisdiction over the §1983 claim and supplemental jurisdiction over the state law claims. Defendants responded to the complaint with motions to dismiss,<sup>3</sup> which were denied as moot after Plaintiff filed an amended complaint. *See* Doc. 27.

The amended complaint, filed March 23, 2026, asserts 11 claims: defamation under state law against Johns (Count I); “invasion of privacy – intrusion” under state law against the County (Count II), Johns (Count III), Robertson (Count IV), and Turner (Count V); “invasion of privacy – public disclosure of private facts” under state law against the County (Count VI), Johns (Count VII), Robertson (Count VIII), and Turner (Count IX); “unreasonable search and seizure” under the Fourth Amendment through §1983 against the County (Count X); and violation of the federal Stored Communications Act (SCA)<sup>4</sup> against the County (Count XI).

The County and Johns responded to the amended complaint with motions to dismiss under Fed. R. Civ. P. 12(b)(6).<sup>5</sup> The motions are fully briefed and are ripe for rulings. No hearing is needed to rule on the motions.

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<sup>3</sup> Robertson and Turner moved to dismiss the claims against them for insufficient service of process, *see* Docs. 16, 20, and the County and Johns moved to dismiss the claims against them for failure to state a claim on which relief can be granted, *see* Docs. 3, 11.

<sup>4</sup> 18 U.S.C. §§2701–2713.

<sup>5</sup> Robertson and Turner have not yet responded to the amended complaint and the deadline for them to do so has not yet run. *See* Docs. 30, 31.

### Standard of Review

“To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible on its face “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556).

When reviewing a motion to dismiss under Rule 12(b)(6), the Court must “accept[] the complaint’s factual allegations as true and constru[e] them in the light most favorable to the plaintiff[.]” *Otto Candies, LLC v. Citigroup Inc.*, 137 F.4th 1158, 1177 (11th Cir. 2025). But the Court is “not bound to accept as true a legal conclusion couched as a factual allegation,” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555), and “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice,” *id.*

### Analysis

The County and Johns argue that the claims against them should be dismissed for various reasons. The Court will address the County’s arguments related to the federal claims first because if those claims are dismissed, the Court will not need to

consider the other arguments because there will be no reason for the Court to retain jurisdiction over the state law claims against the County or the other defendants.

Fourth Amendment Claim (Count X)

The County argues that the amended complaint fails to allege a violation of the Fourth Amendment.<sup>6</sup> The Court agrees.

The Fourth Amendment protects individuals against unreasonable searches and seizures by the Government. The protection extends to places and things in which the person enjoys a “reasonable expectation of privacy.” *United States v. Morgan*, 143 F.4th 1246, 1271–72 (11th Cir. 2025) (quoting *United States v. Ross*, 963 F.3d 1056, 1062 (11th Cir. 2020); *United States v. Trader*, 981 F.3d 961, 967 (11th Cir. 2020)). A person does not have a reasonable expectation of privacy in information voluntarily disclosed to a third-party, *United States v. Miller*, 425 U.S. 435, 443 (1976); *United States v. Ewing*, 140 F.4th 1339, 1347 (11th Cir. 2025); *United States v. Jones*, 149 F. App’x 954, 959 (11th Cir. 2005), even if that information is unlawfully obtained by the Government from another person’s property, *United States v. Tercier*, 835 F. App’x 471, 481 (11th Cir. 2020).

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<sup>6</sup> The County also argues that the amended complaint fails to allege sufficient facts to impose municipal liability on the County under *Monell v. Dep’t of Soc. Servs. of the City of New York*, 436 U.S. 658 (1978), but the Court need not consider that argument if there is no underlying constitutional violation.

In *Tercier*, the Government obtained text messages between the defendant and a third-party through a warrantless search of the third-party's cell phone and used the messages against the defendant at trial. *Id.* at 476. On appeal, the defendant argued that the district court erred in admitting text messages because they were obtained in violation of the Fourth Amendment. *Id.* at 481. The Eleventh Circuit rejected the argument, explaining that although the defendant would have a privacy interest in the contents of his own phone, he did not have a privacy interest in the contents of a third-party's phone or standing to challenge the warrantless search of the third-party's phone. *Id.* That same principle applies here.

The amended complaint does not allege that anyone from the County obtained any information from Plaintiff's phone; rather, it alleges that someone from the County (likely, Cook) took photographs of text messages that Galloway received from Plaintiff on his phone. Even if the photographing violated Galloway's Fourth Amendment rights,<sup>7</sup> it did not violate Plaintiff's Fourth Amendment rights because, under the cases cited above, she did not have a privacy interest in the information on Galloway's phone or standing to challenge the alleged warrantless search of that phone.

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<sup>7</sup> Whether it did might depend on whether the phone was Galloway's "personal cell phone" (as asserted in the complaint, *see* Doc. 26 at ¶10) or his "County device" (as asserted by Plaintiff in her response to the motion to dismiss, *see* Doc. 49 at 9).

Accordingly, for the reasons stated above, the amended complaint fails to state a plausible Fourth Amendment claim against the County.

#### SCA Claim (Count XI)

The County argues that the amended complaint fails to state a plausible SCA claim because the cell phone off which the text messages were photographed is not a “facility” for purposes of the SCA.<sup>8</sup> The Court agrees.

The SCA imposes liability on any person who “intentionally accesses without authorization a facility through which an electronic communication service is provided; or intentionally exceeds an authorization to access that facility; and thereby obtains . . . access to a wire or electronic communication while it is in electronic storage.” 18 U.S.C. § 2701(a). A person aggrieved by a violation of the SCA may bring a civil action against the person or entity that committed the violation. 18 U.S.C. §2707(a).

The SCA does not define the term “facility,” *Brown Jordan Int’l, Inc. v. Carmicle*, 846 F.3d 1167, 1177 n.4 (11th Cir. 2017), but case law has explained that “the relevant ‘facilities’ that the SCA is designed to protect are not computers that

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<sup>8</sup> The County also argues that the SCA claim is time-barred because it was first asserted in the March 2026 amended complaint, but that argument is meritless because the SCA claim relates back to the date the original complaint was filed (December 12, 2025) since it arises out of the same conduct, transaction, and occurrence as the claims asserted in the original complaint, *see* Fed. R. Civ. P. 15(c)(1)(B), and the original complaint was timely under 18 U.S.C. §2707(f) because it was filed within two years of the date that Plaintiff first became aware that someone somehow obtained her text message exchange with Galloway (December 17, 2023).

*enable* the use of an electronic communication service, but instead are facilities that are *operated* by electronic communication service providers and used to store and maintain electronic storage.” *Garcia v. City of Laredo, Tex.*, 702 F.3d 788, 792 (5th Cir. 2012) (quoting *Freedom Banc Mortg. Servs., Inc. v. O’Harra*, 2012 WL 3862209, at \*9 (S.D. Ohio Sept. 5, 2012)) (emphasis in original). That conclusion is consistent with the Eleventh Circuit’s observation in *United States v. Steiger* 318 F.3d 1039, 1049 (11th Cir. 2003), that the SCA “clearly applies ... to information stored with a phone company, Internet Service Provider (ISP), or electronic bulletin board system (BBS)” but that it “does not appear to apply to ... information stored on [a computer] hard-drive.”

The Court finds that reasoning persuasive. The amended complaint alleges only that a County employee (likely, Cook) viewed and photographed text messages appearing on Galloway’s phone. It does not allege unauthorized access to servers maintained by a telecommunications provider, cloud-storage provider, or other electronic communication service.<sup>9</sup> In short, the alleged access was to the device itself—and that is not enough to state a claim under the SCA. *See Garcia*, 702 F.3d

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<sup>9</sup> The Court did not overlook Plaintiff’s argument that “[t]he facility at issue is not Plaintiff’s cell phone” but rather “the electronic communication services through which Plaintiff’s messages were transmitted and stored, namely the cloud-based messaging and storage infrastructure through which text messages on modern Apple devices are routed and synchronized.” Doc. 43 at 15–16. However, none of that is alleged in the amended complaint, nor can it be reasonably be inferred from what is alleged about the text messages merely being photographed.

at 793 (“An individual’s personal cell phone does not *provide* an electronic communication service just because the device *enables* use of electronic communication services ....”) (emphasis added); *Owens v. Propes*, 601 F. Supp. 3d 1360, 1369–70 (M.D. Ga. 2022) (holding that plaintiff failed to state an SCA claim where he “allege[d] that Defendants accessed data that was ‘stored on’ a device—[an] Apple watch” and did “not allege that Defendants obtained any data from a ‘facility’ like a cloud-based service provider”) (internal citations omitted); *Stirling Int’l Realty, Inc. v. Soderstrom*, 2015 WL 2354803, at \*5–6 (M.D. Fla. May 15, 2015) (explaining that a plaintiff asserting a SCA violation “must show that the facility ... is one which is operated by an electronic communication service provider, such as a computer mail or storage facility, and not an end user device like a personal computer, laptop, hard drive, or cell phone”); *but cf. Schwartz v. ADP, Inc.*, 2021 WL 3172029, at \*2 (M.D. Fla. July 26, 2021) (denying motion to dismiss SCA claim that was based on alleged unauthorized access to “Apple accounts, ID, iCloud, and applications” rather than on “laptop, iPhone, and iPad”).

*Brown Jordan* is not contrary authority. The court in that case affirmed a judgment in favor of an employer under the SCA where an employee used a generic password to gain unauthorized access to the email accounts of other employees on the employer’s “cloud-based service.” *Brown Jordan*, 846 F.3d at 1177 n.4. The conduct in *Brown Jordan*—direct and unauthorized access to electronic

communications maintained on a cloud-based service—is precisely the type of conduct that is prohibited by the SCA.

By contrast, the allegations here involve photographs taken of text messages displayed on a device. The amended complaint does not allege that anyone hacked into Plaintiff's (or Galloway's) messaging account, cloud backup, messaging server, or any remotely hosted messaging platform. Nor does it allege circumvention of provider credentials or unauthorized access to communications maintained by an electronic communication service.

*Brown Jordan* recognized that cloud-based email systems qualify as “a facility through which an electronic communication service is provided” under the SCA, *id.*, but nothing in that opinion suggests that a personal cell phone itself becomes a statutory “facility” merely because it displays communications previously transmitted through one. Indeed, *Brown Jordan* focused on unauthorized access to employee cloud-based email accounts—not mere observation or copying of messages displayed on a user's device. Accordingly, contrary to Plaintiff's argument, *Brown Jordan* does not support the conclusion that the SCA applies when a defendant merely photographs messages displayed on a personal device.

Additionally, although not argued by the County, it is noteworthy that the amended complaint does not allege that whoever photographed the text messages did not have authority to access the messages on Galloway's phone—which is

problematic because an SCA violation is premised on unauthorized access. On that issue, the Court did not overlook the allegation that the text messages were accessed “without authorization in that the access was performed without Plaintiff’s consent and not pursuant to a warrant.” However, because the amended complaint alleges (or at least implies) that the text messages were obtained from Galloway’s phone, not Plaintiff’s phone, her consent is immaterial to the question of whether whoever took the photographs had the authority to access the messages on Galloway’s phone.

Accordingly, for the reasons stated above, the amended complaint fails to state a plausible claim against the County under the SCA.

Leave to Amend

Plaintiff did not request leave to file a second amended complaint in the event that the Court found the arguments in the motions to dismiss persuasive, and the Court is not required to grant leave to amend sua sponte because Plaintiff is represented by counsel. *See Pop v. LuliFama.com LLC*, 145 F.4th 1285, 1297–98 (11th Cir. 2025) (quoting *Wagner v. Daewoo Heavy Indus. Am. Corp.*, 314 F.3d 541, 542 (11th Cir. 2002)). Plaintiff has already amended the complaint once, and at this point, further amendment of the federal claims would be futile. Indeed, despite Plaintiff’s best efforts to make a “federal case” out of this matter, the allegations in the amended complaint describe a purely local dispute that should be litigated in state court.

### State Law Claims

The Court has supplemental jurisdiction over the state law claims in the amended complaint, but the Court is not required to retain jurisdiction and decide those claims after dismissing the federal claims. The statute governing supplemental jurisdiction provides that the Court “may decline to exercise supplemental jurisdiction over a claim ... if [it] has dismissed all claims over which it has original jurisdiction,” 28 U.S.C. §1367(c)(3), and the Eleventh Circuit has “encouraged district courts to dismiss any remaining state claims when ... the federal claims have been dismissed prior to trial,” *Raney v. Allstate Ins. Co.*, 370 F.3d 1086, 1089 (11th Cir. 2004) (emphasis added); *see also L.A. Draper & Son v. Wheelabrator-Frye, Inc.*, 735 F.2d 414, 428 (11th Cir. 1984) (explaining that “if the federal claims are dismissed prior to trial, [Supreme Court precedent] strongly encourages or even requires dismissal of the state claims”); *Ameritox, Ltd. v. Millenium Labs., Inc.*, 803 F.3d 518, 532 (11th Cir. 2015) (explaining that a court may dismiss supplemental claims under 28 U.S.C. §1367(c) and should do so by weighing the values of “judicial economy, convenience, fairness, and comity”) (quoting *City of Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173 (1997)).

Here, the federal claims have been disposed at the pleadings stage, and the Court sees no good reason to retain jurisdiction to decide the remaining state law claims. There is nothing inconvenient or unfair about requiring the parties to litigate

the state law claims in the court in which the suit was originally filed, and allowing state courts to decide state claims promotes comity. Moreover, sending the state law claims back to state court at this point will not frustrate judicial economy because substantial resources have not been extended in this Court and it should not take much duplication of effort for the parties to re-brief the motions to dismiss the state law claims when the case returns to state court. *Cf. Parker v. Scrap Metal Processors, Inc.*, 468 F.3d 733, 746 (11th Cir. 2006) (explaining that the interests of judicial economy weigh in favor of retaining jurisdiction over state law claims “where substantial judicial resources have already been committed, so that sending the case to another court will cause a substantial duplication of effort”) (quoting *Graf v. Elgin, Joliet & E. Ry. Co.*, 790 F.2d 1341, 1347–48 (7th Cir. 1986)).

Accordingly, the Court finds that the state law claims should be remanded to state court for disposition.

### Conclusion

In sum, for the reasons stated above, it is **ORDERED** that:

1. The County’s motion to dismiss (Doc. 32) is **GRANTED** with respect to the federal claims and **DENIED without prejudice** as to the state law claims.
2. Johns motion to dismiss (Doc. 33) is **DENIED without prejudice**.
3. The federal claims (Counts X and XI) are **DISMISSED with prejudice**, and the state law claims (Counts I through IX) are **REMANDED** to the

Circuit Court for the First Judicial Circuit in and for Walton County, Florida, under 28 U.S.C. §1367(c).

4. The Clerk shall close the case file in this Court.

**DONE and ORDERED** this 15th day of May, 2026.



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**T. KENT WETHERELL, II**  
**UNITED STATES DISTRICT JUDGE**

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[(0:00)] MR. MITCHELL: We'll be ready.

[(0:01)] THE COURT: Go ahead and bring them in. That way we can get the juror on their way.

[(0:04)] MS. BOGENSCHUTZ: Yes, your honor.

[(0:05)] THE COURT: And then after that one y'all wanna do your case Mr. [Inaudible]

[(0:11)] MR. MITCHELL: [Inaudible]

[(0:13)] THE COURT: Okay. I think y'all will be the shortest of the two Mr. Patel, I know you've been patiently waiting. Alright, Mr. Stottlemeyer, let me have you raise your right hand. Do you swear to affirm and tell the truth, the whole truth, and nothing but the truth so help you God?

[(0:27)] MR. STOTTLEMYER: Yes, sir.

DIRECT EXAMINATION BY THE COURT:

[(0:28)] Q. Alright. Tell me your name and spell your last name, please?

[(0:29)] A. Daniel Stottlemeyer. S-T-O-T-T-L-E-M-Y-E-R.

[(0:33)] Q. What's your date of birth?

[(0:35)] A. 8/8/70.

[(0:36)] Q. How far did you go in school?

[(0:37)] A. Uh, 11th grade. I got my GED after that.

[(0:39)] Q. Okay. You read, write, and understand the English language?

[(0:42)] A. Yes.

[(0:43)] Q. Is that your signature on the next last page of the plea offer?

[(0:44)] A. It is.

[(0:45)] Q. Prior to signing, did you go over the terms of Ms. Bogenschutz?

[(0:47)] A. Yes.

[(0:48)] Q. If you had any questions about the terms, was she able to answer them for you?

[(0:50)] A. Yes.

[(0:52)] Q. You satisfied with her representation?

[(0:53)] A. Yes.

[(0:54)] Q. Before coming to court, did you have a chance to watch her rights video?

[(0:56)] A. Yes.

[(0:57)] Q. You understand the rights that you watched on the video as well as the rights on page two and you'll be waiving giving up those rights by entering the plea?

[(1:03)] A. Yes sir.

[(1:05)] Q. Is that what you wish to do?

[(1:06)] A. Yes sir.

[(1:07)] Q. You understand that this plea could also subject you to having your driver's license suspended by the DMV even though it's not mentioned in the plea agreement, the DMV can do that on their own?

[(1:15)] A. Yes.

[(1:16)] Q. Do you still wish to go forward with the plea?

[(1:17)] A. Yes, sir.

[(1:19)] Q. Alright. This calls for a plea in case 24CF930 to the lesser included offense in count one of possession of controlled substance. You understand the maximum felony that charge... for that charge is five years? [(1:30)] A. Yes.

[(1:31)] Q. Count two, possession of drug, paraphernalia, the maximum penalty is one

year. Count three, um, altering a tag to avoid registration, max penalty 60 days. Count four driver license suspended, max penalty 60 days. Do you understand?

[(1:45)] A. Yes sir.

[(1:46)] Q. The terms of the plea agreement called for an adjudication on count one 18 months in Department of Corrections with credit for time served. 775 fines in court costs, \$100 FDLE fee, \$100 local government trust fund, \$100 cost of prosecution, \$150 public defender fee, all those would be reduced to a civil lien on counts two, three, and four. Adjudication time served with credit for time served, the court would take no action on the failure to appear. Is that your understanding of the terms?

[(2:17)] A. Yes, sir.

[(2:18)] Q. Other than those terms, have any promises been made to get you enter the plea?

[(2:20)] A. No, sir.

[(2:21)] Q. You doing it freely and voluntarily?

[(2:23)] A. Yes, sir.

[(2:24)] Q. Do you believe it's in your best interest?

[(2:25)] A. Yes, sir.

[(2:26)] Q. Is there a factual basis for the plea?

MS. BOGENSCHUTZ: We stipulate, your Honor.

BY THE COURT:

[(2:29)] Q. Are you under the influence of any drugs, alcohol, anything that affects your ability to think clearly today?

[(2:32)] A. No, sir.

[(2:34)] Q. Alright. As to count one, the lesser included offense of possession of controlled substance, do you plea no contest?

[(2:39)] A. Yes.

[(2:40)] Q. As to count.. did you say yes?

[(2:41)] A. Yes, sir.

[(2:42)] Q. Okay. As to count two possession of drug paraphernalia, do you plea no contest?

[(2:45)] A. Yes, sir.

[(2:46)] Q. Count three, abuse to tag to avoid registration, you plead no contest?

[(2:49)] A. Yes, sir.

[(2:50)] Q. Count four, driving license suspended, you plead no contest?

[(2:52)] A. Yes, sir.

[(2:53)] Q. I accept your pleas on counts one through four. I find you're alert and intelligent and you understand the nature of the charges against you. You're entering the pleas freely and voluntarily and you're represented by competent counsel. Based on the stipulation, I find there's a factual basis for the plea. Pursuant to the terms of the plea agreement on count one for the possession of controlled substance charge, I adjudicate you to be guilty, sentenced you to 18 months in the Department of Corrections with credit for time served or do you pay 775 fines in court costs, \$100 FDLE fee, \$100 local government trust fund, \$100 cost of prosecution, \$150 public defender fee, all those will be reduced to a civil lien on counts two, three, and four. Adjudication to be guilty sentence you to time served with credit for time served, take no action on the failure to appear. Total sentence points 32.8.

[(3:43)] MR. WEBSTER: 22. Sorry, I had [inaudible]

[(3:45)] THE COURT: That's alright. 22.8.

[(3:49)] MR. WEBSTER: Yes.

[(3:50)] THE COURT: Everybody agree?

[(3:52)] MS. BOGENSCHUTZ: Yes, your Honor.

BY THE COURT:

[(3:52)] Q. Alright. Mr. Stottlemyer, do you have any questions, sir?

[(3:55)] A. No, no sir.

[(3:56)] Q. 30 days to appeal your sentence. If you can't afford to hire a lawyer to help you on the appeal, one will be appointed to help you. Otherwise, best of luck to you, sir.

[(4:03)] A. Okay.

[(4:04)] THE COURT: Alright. Y'all ready? Y'all got... do y'all, how do y'all wanna handle your cases? Do y'all wanna do them at the same time or?

[(4:09)] MR. WEBSTER: I think we just stand side by side.

[(4:10)] THE COURT: Okay. Are y'all good?

[(4:11)] MR. WEBSTER: The court pieces you from.

[(4:12)] THE COURT: Have both clients on Zoom?

[(4:14)] MR. WEBSTER: Yes, sir.

[(4:15)] MS. BOGENSCHUTZ: Uh, I, I believe so. I, I don't know if it's [inaudible]

[(4:18)] THE COURT: Okay.

[(4:19)] MS. BOGENSCHUTZ: I can't read that one.

[(4:21)] THE COURT: They're on I didn't, there's two for Mr. Robertson. I didn't know if I should have them both in.

[(4:26)] AUTOMATED VOICE RECORDER: [Inaudible]

[(4:27)] THE COURT: Ms. Bogenschutz, Mr. Turner, have a great day. Thank you.

[(4:29)] MS. BOGENSCHUTZ: Thank you. [Inaudible] is open.

[(4:32)] THE COURT: Okay. I had two from Mrs. Quinn Robertson and Joe Turner. All right. Quinn Robertson case 25122 and Joe Turner case 25123.

Alright. So I don't... do y'all have a preference of who goes first?

[(5:10)] MR. WEBSTER: You good ahead to go.

[(5:11)] MS. BOGENSCHUTZ: Um, I think that, well if we're gonna go and...

[(5:14)] THE COURT: Just make sure he might wanna scoot in front of that mic just a little bit.

[(5:15)] MS. BOGENSCHUTZ: I'm sorry, Judge.

[(5:16)] THE COURT: That's okay. Just to get you recorded.

[(5:18)] MS. BOGENSCHUTZ: Um, uh, if we're going time-wise, I filed a, uh, motion to compel discovery and/or Brady information and a motion for subpoena duces tecum on November 18th of '25. And I, I... we were supposed to hear it, I think January, but the state asked for continuance and there were a couple of other things that happened. Um, I've actually resolved a couple of these issues.

[(5:38)] THE COURT: Okay.

[(5:39)] MS. BOGENSCHUTZ: Um, myself, um, by doing public records requests in the interim. Um, I'm still requesting Brady information regarding, uh, the listed victim in this case publicly disseminating wise, uh, to a very large listserv, um, that apparently Mr. Mitchell was aware of in the summer of '24. Um, and I kind of stumbled upon it with a public records request. I don't know if there's other emails that are out there 'cause

apparently he was pretty prolific in his emailing. Um, and I also requested a, um, uh, any information that has to do with the fact that, um, FDLE states that they never investigated either one of our clients. They only investigated a county commissioner and the Walton Sheriff's Office stated their investigation was, uh, cursory. Um, so, uh, it would appear that there was a cursory investigation and that somebody decided that there was a reasonable likelihood of conviction out of that. And if there's any other information related to FDLE not being assigned to, uh, investigate our clients or being assigned to investigate our clients, indicating that the FDLE investigator was perhaps not telling the truth, obviously that needs to be turned over. Um, uh, his testimony at deposition back in November was that he was only assigned to investigate Commissioner Donna Johns. He never investigated either one of our clients and that, uh, the chief deputy of Walton County had given him some kind of a phone call after, um, they had a meeting that said, oh, we only need you to investigate Donna Johns not the two guys that I put in the letter. So, um, and then I, I also I'm requesting, um, any information that the state has that, well, to give the court a couple of facts. Be, um, there's an iPad that's a county iPad.

[(7:36)] THE COURT: I understand that one. I, I read the motion that was filed, so I, I'm familiar with those facts.

[(7:40)] MS. BOGENSCHUTZ: Okay.

[(7:41)] THE COURT: Although the count... the subsequent county administrator was able to give consent to search the iPad.

[(7:44)] MS. BOGENSCHUTZ: Correct. So, uh, under what theory? Uh, and it's similar to what Mr. Webster's going through in his statement of particulars but, um, I'm asking

for anything that would go to the theory that a subsequent acting county administrator could consent to the search of the entire iPad in Cellebrite and be then official county administrator would not be able to go through all of those messages. Um, and, uh, I believe, uh, and I was also asking the court to, um, issue a subpoena duces tecum. Uh, apparently the County Commission decided not to respond to one of the three prongs of the subpoena duces tecum that was prepared by Investigator Riddick. Um, and, uh, he, uh, stated that the prosecutor told him, don't worry about it and moved on, um, regarding private emails of, uh, commissioners. Um, and, uh, earlier in this motion, I also make the point that, uh, the victim in this case stated, I guess I didn't have any right to privacy. So I'm also requesting any theory of events that might allow the state to go forward on this prosecution 'cause I, I haven't seen anything.

[(9:03)] THE COURT: Was that a subpoena issued by you or by somebody else?

[(9:06)] MS. BOGENSCHUTZ: The subpoena duces tecum was issued or I believe it was typed up by Investigator Riddick. It was signed by Mr. Mitchell. And, uh, there was some back and forth between Riddick and Mr. Atkinson who's the county attorney.

[(9:20)] THE COURT: I saw that. But you're... I don't know that I have an authority to enforce 'cause I mean, the state could withdraw that subpoena, right? So I mean, the FDLE could withdraw that subpoena.

[(9:28)] MS. BOGENSCHUTZ: I'm asking to issue one from me.

[(9:30)] THE COURT: You're wanting to issue a subpoena to say that?

[(9:32)] MS. BOGENSCHUTZ: Yeah. For the [inaudible]

[(9:33)] THE COURT: To request for the emails?

[(9:35)] MS. BOGENSCHUTZ: Right.

[(9:36)] THE COURT: Okay. Alright. Is that... that's all of them?

[(9:39)] MS. BOGENSCHUTZ: That's as to that, yeah.

[(9:40)] THE COURT: Okay. And then we can address the motion to quash after that.

[(9:42)] MS. BOGENSCHUTZ: Okay.

[(9:43)] THE COURT: And the sanctions, if there are. Alright. Mr. Mitchell, do you wanna be heard on these?

[(9:47)] MR. MITCHELL: I, I don't have any objection to the defense counsel issued a subpoena duces tecum I think it's well within their power to issue for whatever they see fit.

[(9:57)] THE COURT: And then if they object the county objects, then they can object and ask for a hearing.

[(10:00)] MR. MITCHELL: Yeah.

[(10:01)] THE COURT: Okay. Alright. So that resolves if we're going last first, that resolves the subpoena issue. So then you wanna address the others one by one or do you want me to call your [inaudible]

[(10:12)] MR. MITCHELL: You'll call on, your Honor then I'll...

[(10:15)] THE COURT: Alright. So the first one then, have you counsel for Mr. Turner, have you already resolved that one? That the emails from Mr... from uh, special agent Riddick with FDLE, the communication between Mr. Riddick and ASA Mitchell?

[(10:30)] MS. BOGENSCHUTZ: Um, I believe I have all of those, Judge. Obviously if there's ones I don't have, then I'd ask for those to be turned over.

[(10:35)] THE COURT: Alright.

[(10:36)] MS. BOGENSCHUTZ: But I did a public records request and I have their

communications.

[(10:39)] THE COURT: Well, and I think, uh, Mr. Mitchell knows the obligation but obviously you'll have to reach out to Investigator Riddick or anybody in law enforcement if they've got anything in writing that they believe could be exculpatory, then you'll have to review it.

[(10:50)] MR. MITCHELL: Yes.

[(10:51)] THE COURT: And turn that over if it is exculpatory.

[(10:53)] MR. MITCHELL: I believe, and I will double check, but I believe our public records person in Pensacola provided Ms. Bogenschutz with every email that had been sent between me and Investigator Riddick. But I will follow up with that and...

[(11:11)] THE COURT: Okay.

[(11:12)] MR. MITCHELL: ...and make sure.

[(11:13)] THE COURT: And then make sure they... I'm sure you tell them to maintain those and that if they have notes, maintain those. Obviously not saying you gotta turn over the notes but if, if they become relevant down the road that you gotta maintain them.

[(11:23)] MR. MITCHELL: Yeah.

[(11:24)] THE COURT: Alright. So number two, Brady information regarding Charles Galloway publicly disseminating lies about the investigation. How does and I guess Mr. Mitchell can I ask but I don't know how the state and the government can be aware of all the things that Mr. Galloway disseminates but that'd be the only issue is, is they're only required to give you what they have.

[(11:44)] MS. BOGENSCHUTZ: Well...

[(11:44)] THE COURT: Obviously if they become aware of something.

[(11:48)] MS. BOGENSCHUTZ: I stumbled upon this, uh, via public records request.

Um, and apparently Mr. Galloway has a listserv where he sends out quite a few things.

Um, and he was, uh, the FDLE investigators said that he brought it up to Mr. Mitchell

prior to filing the case that, you know, your victim is sending out to thousands of people things about this, uh, investigation that I definitely did not say or do.

[(12:14)] THE COURT: Well, and again, correct me if I'm wrong but I think Mr. Mitchell's under an obligation and Mr. Mitchell, correct me if I'm wrong, that if he is aware of Brady material so if he's, if he's not aware of it but then he becomes aware of it, he's obligated to turn that over once he becomes aware of it Mr. Mitchell you understand?

[(12:29)] MR. MITCHELL: Yes.

[(12:30)] THE COURT: You agree? Alright. So he's under that obligation but I don't think that that requires him to go out and try to search any social media posts that Mr. Galloway made to see if there are exculpatory but if he becomes aware of it...

[(12:42)] MS. BOGENSCHUTZ: Right.

[(12:43)] THE COURT: ...he then has to turn it over.

[(12:44)] MS. BOGENSCHUTZ: Well, this, this I was told he was aware of and it wasn't turned over. So that's why I'm making this additional plan...

[(12:49)] THE COURT: Okay.

[(12:50)] MS. BOGENSCHUTZ: ...to kind of shore up the record.

[(12:52)] THE COURT: Alright. And if you'll talk to Mr. Mitchell, if there's things that you think are not turned over then on that one if we need to address it again but I think he's aware of that obligation. So then FDLE never conducted an investigation of Quinn

Robertson or Joseph Turner. Uh, and the state filing decision was therefore based on the cursory investigation of Walton County Sheriff's Office. Mr. Mitchell, do you wanna respond to that one?

[(13:21)] MR. MITCHELL: Did... we filed an, uh, direct file information based upon the information that was provided to us?

[(13:29)] THE COURT: I don't know what you're getting at on that with that one.

[(13:31)] MS. BOGENSCHUTZ: Uh, well, Judge, the, uh, FDLE investigator said that he never conducted an investigation of either one of our clients. Um, and it would appear that if he did not conduct an investigation as to either one of our clients, Mr. Mitchell's filing information based on that would seem like I'm, I'm asking if there's anything else, uh, that's out there that he based his filing decision on other than this?

[(13:57)] THE COURT: I think what he's saying is they did an... and, and I'm not speaking for Mr. Mitchell but I think he's saying they did an independent, I'm assuming independent investigation, but you've been, I think you've been able to depose and, uh, special agent Riddick and then you've got his email. So I don't know what else that you're hoping to get from this request.

[(14:16)] MS. BOGENSCHUTZ: Uh, I don't know if there's anything else that's out there that you relied upon to make a charging decision, uh, because it would appear there was a just a WCSO investigation that they described as cursory and then FDLE did not do one.

[(14:29)] THE COURT: Yeah. I mean I think Mr. Mitchell knows he's under an obligation if any, if any agency investigated this matter and made any findings and put them in writing that would be interpreted or could be interpreted as a exculpatory or Brady, then

Mr. Mitchell would have to turn those over so he's aware of that obligation. Alright. And again, that goes back to anything that, uh, is Brady or could be Brady has to, if Mr. Mitchell doesn't think he has to turn it over, then we can review it in camera. Um, alright. So number four, this is the one where you're alleging that acting county administrator Stan Sunday was asked by FDLE to give consent to search the iPad. As I understand it, there was an iPad that was... that belonged to Walton County that... is it Chaz Galloway?

[(15:18)] MR. MITCHELL: Yes.

[(15:19)] THE COURT: Chaz Galloway used. And the allegation being that he on that iPad, uh, linked his personal app Apple account and that iPad became the, became the, um, computer document or computer, uh, tool in question that was later used or allegedly used to link to Mr. Galloway's Apple account. And the allegations being through that, I think Mr. Mitchell correct me that they intercepted or took from that account items that belonged to Mr. Galloway or that were Mr. Galloway's text messages or something of that nature.

[(15:59)] MR. MITCHELL: Yeah.

[(16:00)] THE COURT: But then FDLE approached Stan Sunday and said, we want you to give consent to search this iPad that belongs to Walton County and Stan Sunday signed consent thereby at least given the implication that he had the authority to give the consent to search this device. Is that correct?

[(16:20)] MS. BOGENSCHUTZ: Yes.

[(16:21)] THE COURT: And you all believe that that's potentially exculpatory because if, if the subsequent county administrator had the authority to give consent, then why did

Mr. Robertson not have the same ability to search it for himself?

[(16:37)] MS. BOGENSCHUTZ: I, I styled this as a motion to compel Discovery/Brady because I, I'm asking if there's any other information that the state has that they have not provided to us that would somehow reconcile those two pieces of information.

[(16:52)] THE COURT: Okay. So you at least are aware of the issue with Stan Sunday giving consent?

[(16:55)] MS. BOGENSCHUTZ: Right.

[(16:56)] THE COURT: And if that's, I'm not saying it isn't exculpatory but if it is, then you have that information and you're saying now that you've learned that Mr. Mitchell, is there anything else where anybody else consented to the search of this iPad or any exculpatory evidence related to that? Is that what you're asking?

[(17:15)] MS. BOGENSCHUTZ: Or any missing discovery potentially? Does the state have any inculpatory evidence that would show why Mr. Robertson would not have the same authority as his successor county administrator?

[(17:26)] THE COURT: Okay. Well and then some of that may be a defense. Are anything else we need to address with that one?

[(17:35)] MS. BOGENSCHUTZ: I don't think so.

[(17:36)] THE COURT: So, so again, Mr. Mitchell's under, he's aware of his obligation.

[(17:40)] MR. WEBSTER: I, I would say, your Honor, some of the things that he [inaudible]

[(17:42)] THE COURT: Just come over just so I have you on the mic.

[(17:43)] MR. WEBSTER: Stephen Webster, some of the things the investigators said in his deposition were just kind of bizarre and like for instance, conversations he allegedly

had with Mr. Mitchell. And so I'm just wondering not that Mr. Mitchell is gonna be a witness, but if those things are true or false, that's kind of where I'm in limbo on it because if they are true I feel like somehow the state should confirm it. And if they're not then I feel like the state should confirm that, you know, that the investigator made up testimony outta whole cloth.

[(18:15)] THE COURT: Well, are you asking for them to turn over a written consent that Stan Sunday signed? Is that what you're...

[(18:20)] MR. WEBSTER: No, sir. I'm talking more, I'm sorry, I'm talking really about the investigator testified that he got on, had conversations with Mr. Mitchell where he said this case isn't going anywhere. I don't think this case is going anywhere. And...

[(18:32)] THE COURT: Well...

[(18:33)] MR. WEBSTER: There's no, there's no report saying that and...

[(18:34)] THE COURT: But y'all have been able to depose him and ask him that?

[(18:35)] MR. WEBSTER: Yes.

[(18:36)] THE COURT: That's Investigator Riddick.

[(18:37)] MR. WEBSTER: Yes, sir. So they've offered that witness to you all to depose.

[(18:41)] MR. WEBSTER: And I just wanna make sure there's not some, some somewhere evidence out there that he was not telling the truth when he offered that testimony. And if so, I feel like the state should, should reduce that to writing or somehow advise us that the state's position is that the investigator wasn't telling the truth.

[(18:57)] THE COURT: Alright. So then I think Mr. Mitchell then would understand his obligation if I understand that that Investigator Riddick obviously has made statements

and emails that have been turned over, he then was subjected to a deposition and if any time he made inconsistent statements with any other statements, then any of those statements would also need to be disclosed.

[(19:15)] MR. WEBSTER: Yes, sir.

[(19:16)] THE COURT: So if he's made statements that are inconsistent with his deposition testimony then those would have to be disclosed as exculpatory. And if he's made statements that are inconsistent with reports or emails he sent to Mr. Mitchell and Mr. Mitchell is aware of them, he would have to turn those over. And I think Mr. Mitchell's under the obligation to ask Mr. Riddick to have all written statements that he's made.

[(19:39)] MR. WEBSTER: And I'm more worried about the verbal conversations 'cause he made it seem like it was a verbal conversation he had with the state. And I mean the state hasn't rebutted it and said it's not true but.

[(19:48)] THE COURT: Well, again, I think if Mr. Mitchell becomes aware of those statements, then he's under the obligation unless y'all tell me how I'm wrong on that, I guess is we can accept it as an admission.

[(19:57)] MS. BOGENSCHUTZ: That it was true.

[(19:58)] THE COURT: That it was true. That's all. I just, and the same thing for the phone call he allegedly had with the chief deputy, or I'm sorry, I hope that, I don't know what his title is, Mr. Clark. Um, you know, if, if he's not telling the truth about that, then I would trust that the state would let us know that at least Mr. Clark or somebody on behalf of the state takes a different position than what Inspector Riddick. Well again, if, if and Mr. Mitchell correct me I'm wrong, but if he, if he gets a phone call from, you

mentioned Donnie Clark. If he gets a phone call from Donnie Clark and Donnie Clark and Mr. Mitchell talk and Donnie Clark says, yeah, but Investigator Riddick told me this and it's different than something he said in deposition. Once Mr. Mitchell was made aware of it, then I think he's obligated to reduce that to writing and send that to y'all and make y'all aware of it.

[(20:42)] MR. WEBSTER: Thank you.

[(20:43)] THE COURT: I think Mr. Mitchell knows that.

[(20:44)] MR. WEBSTER: Okay.

[(20:45)] THE COURT: So if he's aware of any inconsistent statements, once he becomes aware of it, he's gonna turn it over. Alright. Did that cover, we've got the subpoena duces tecum, you'll send that to me to sign and then obviously if anybody has objections to it, they can make those objections.

[(21:01)] MS. BOGENSCHUTZ: Yes. Um, and I, I just wanna make sure that the Brady information, that the lack of, if something did not happen and the state knows that it did not happen and knows that the statement is false, that they're required to correct that on the record.

[(21:16)] THE COURT: If they're made aware that someone gave a false statement, they're required to tell you about that.

[(21:20)] MS. BOGENSCHUTZ: Right.

[(21:21)] THE COURT: Right. I mean, and when we say somebody, someone that's become a witness or...

[(21:25)] MS. BOGENSCHUTZ: Yes, that's right.

[(21:26)] THE COURT: Material to this case.

[(21:26)] MS. BOGENSCHUTZ: Obviously. Yeah. Not anybody in the witness.

[(21:28)] THE COURT: Okay. Does that address then all the needs you had in this motion Patel filed November 18th?

[(21:35)] MS. BOGENSCHUTZ: Uh, I believe so, Judge.

[(21:36)] THE COURT: Alright. Mr. Mitchell, anything else on that?

[(21:38)] MR. MITCHEL: No.

[(21:39)] THE COURT: Alright. Then the motion to quash was filed December 3rd.

[(21:45)] MS. BOGENSCHUTZ: Oh. Oh...

[(21:46)] THE COURT: Did you...

[(21:47)] MS. BOGENSCHUTZ: That's a different motion to quash, Judge.

[(21:49)] THE COURT: Oh, I'm sorry. That was a different [inaudible]. That's right. I'm sorry.

[(21:51)] MS. BOGENSCHUTZ: Yeah.

[(21:52)] THE COURT: So let me catch up to that one. That was a motion to quash..

[(21:55)] MS. BOGENSCHUTZ: That was filed by the sheriff's office.

[(21:56)] THE COURT: That's right. And that's not needed to be addressed, right? That was for Mr. Clark?

[(22:01)] MS. BOGENSCHUTZ: No. They, um, it was for Mr. Clark and then they, they um...

[(22:04)] THE COURT: He then came to a deposition.

[(22:05)] MS. BOGENSCHUTZ: Correct. And, uh, for the, the sheriff, they've listed him now as a B witness. Uh, I maybe be filing a motion to depose and based on the contents of Clark's depo but it's not before the court.

[(22:15)] THE COURT: Alright. So there was a motion for order to show calls on March 12th and then state's response March 20th.

[(22:21)] MS. BOGENSCHUTZ: I think the [inaudible]

[(22:22)] THE COURT: And then there was a motion to quash on March 10th and the court granted in part that emergency motion to quash. And so I've read those motions. I'm happy to hear argument. But here's my take, two things. One, I think that Supreme Court case set it best when those discovery rules are made for a shield and not a sword. And I think you're aware of that. So you can't go, once you find out who all the state's witnesses are, you can't then list them a reciprocal discovery. That's when you're using it as a sword. And the law does not allow you to do that. But it is allowed to be used as a shield in that once you list these witnesses, if you have a good faith basis that you believe those are defense witnesses and you're not doing it just to try to prohibit Mr. Mitchell or the state attorney's office from being able to talk to them, then once you put Mr. Mitchell on notice, here's my witnesses, he then cannot subpoena them for a deposition without giving you notice. Everybody on the same page with that objection?

[(23:24)] MR. MITCHELL: Yes.

[(23:25)] MS. BOGENSCHUTZ: Correct.

[(23:26)] THE COURT: Alright. And so there was some, I don't think we really need to resolve the details. I, it seems to me like that's been resolved. That whatever subpoenas were outstanding, they were quashed, sort of the court's intent was just to keep it status quo. If there is some stuff that if there are some witnesses listed that notice should have been given, let's just stop it right then so we can address it. And that was the reason the court issued the order. Not that I was making a finding that the state had done

something inappropriate. I did not. It was just to maintain the status quo. I'm gonna grant this order to cease any more subpoenas until we could address it.

[(24:03)] MS. BOGENSCHUTZ: Okay.

[(24:04)] THE COURT: And then the state responded and sort of gave the timeline, which suggested to the court that there was no intent to violate, to violate your, uh, you know, right to be put on notice. But I'm, I'm happy to be heard on that. So my...

[(24:21)] MS. BOGENSCHUTZ: Well, I...

[(24:22)] THE COURT: What I'm leaning toward is just reminding the state of their obligation, which I think they're aware of it. Once you list... once you provide them with list of witnesses, they need to give you notice if they intend to, uh, depose them or interview them. At the same time, though, I cautioned you, you can't, like I said, you can't use it as a sword. So if you have a good faith basis, list those witnesses. But I'm not inclined again, I'll hear you out, I'll hear you out. But I'm not inclined to sanction the state. I don't think they did anything intentional. It did appear that they stopped and then any sub... it appeared any subsequent conversations after that were voluntary, which I don't think is in violation of the rule.

[(25:04)] MS. BOGENSCHUTZ: Um...

[(25:05)] THE COURT: But I'm happy to hear you out.

[(25:06)] MS. BOGENSCHUTZ: So the, the statement they took on Wednesday was, uh, everybody agreed on the statement that it was voluntary [inaudible]

[(25:14)] THE COURT: I'm gonna get you come over just a little bit further where I'm gonna get you.

[(25:15)] MS. BOGENSCHUTZ: I'm sorry.

[(25:16)] THE COURT: That's a way to get a good record.

[(25:18)] MS. BOGENSCHUTZ: Um, the, what occurred was that I, I heard information, I asked Mr. Mitchell about it, he told me to file whatever motions I thought should be filed. And he continued forward with taking these statements and he thought he was in the right because he had served these witnesses prior to my filing the witness list, something I was unaware of at the time that I filed the witness list. I had heard he was trying to subpoena people. Um, and, uh, so he, um, but he knew that there was this emergency motion to quash pending and went forward with this other statement. Even though I had showed him the witness list and he had changed the date of the subpoena and he was taking the statement of this witness eight days after I had listed this person as a witness. So I'm happy to walk away from this but I, uh, I, I was not happy with that. And then the following statement was, the only reason the following statement was necessary was to modify the subpoenaed statement the prior day. So I believed that was inappropriate. The court can disagree with me. I'm happy to walk away from this but I, I just was displeased with it.

[(26:25)] THE COURT: Oh well again, I think the devil would be in the details there. And obviously if Mr. Mitchell reached back and said, Hey, pursuant to that subpoena, I got some more questions for you, then that would've been inappropriate and probably contrary to the order. If on the other hand the witness calls and says, I, you know, you told me to call you. If I thought of something, I thought of something, can I tell you on the phone real quick? I don't know that that'd be a violation of the order because again, that would be a voluntary statement. Although best practice might have been to say timeout, we've got an order to quash, we might should wait and take this up later.

Um, but I don't find that anything intentional was done. I will say with all these, it's so, so often that happens that if the attorneys talk and...

[(27:04)] MS. BOGENSCHUTZ: Excuse me.

[(27:05)] THE COURT: And I know Mr. Mitchell meant well but I only read it and you know your emails, you can't read into the emotions but to send back and say, file whatever motions you want, you know, pick up the phone, y'all talk to each other. I think a lot of these things could be worked out on the phone or maybe type something a little more detail. But you may had a reason for sending the shorter email but that resulted in her file of motion and then the court gets involved. But, so again, I don't know, I don't know what goes on behind the scenes. Maybe y'all are fighting like cats and dogs, I don't know. But I find that if y'all talk most of the time you don't have to have these motions. But, um, moving forward, I think Mr. Mitchell is well aware if he gets a listed list of defense witnesses, which he has, he can't subpoena them. Not going to, without giving notice to the defense.

[(27:55)] MR. MITCHELL: There are no outstanding subpoenas.

[(27:56)] THE COURT: Okay. Alright. And so I find that there was no intentional acts done by the state attorney's office or Mr. Mitchell to violate the court's order or to violate the rules of discovery. Um, and so that's the court's ruling on that. And again, if, if, if additional issues were to come up, then maybe it's different. But anything else on that?

[(28:21)] MS. BOGENSCHUTZ: Not from me, Judge.

[(28:22)] THE COURT: Alright. So then anything else on Mr. Turner's case or can we turn to Mr. Robertson's case?

[(28:27)] MS. BOGENSCHUTZ: Uh, [inaudible]

[(28:28)] THE COURT: Or did I get those backwards?

[(28:29)] MS. BOGENSCHUTZ: I think that some of the rulings on his were his.

[(28:32)] THE COURT: As far as the motions though. That's all.

[(28:33)] MS. BOGENSCHUTZ: Right.

[(28:34)] THE COURT: Okay. Alright. Then do we turn then, Mr. Webster, is that right?

[(28:39)] MR. WEBSTER: Yes, sir.

[(28:40)] THE COURT: To Mr. Robertson's. And I believe you had a motion for a statement in particular, is that correct?

[(28:44)] MR. WEBSTER: Yes, sir.

[(28:46)] THE COURT: I did read your motion. I'm happy to hear from the state. I can tell the state, um, there's not many cases where I think a statement of particulars would be warranted. This may be that one.

[(29:02)] MR. WEBSTER: I don't file them. I mean it's, I don't wanna waste the court's time, but I just feel like there's genuine concerns on which way I'm going, you know.

[(29:08)] THE COURT: And again, I don't know all the details of the discovery you've given but I do think the devil's in the details with what specific intercepts took place and the allegations being between October 10th, 2023 and January 22nd, 2023 did intercept. But that doesn't give any details to which text messages or messages and/or the line being belonging to Charles Galloway. So again, I think the devil's in the details here and maybe they are well aware of which text messages they are, but I think they probably are entitled to I'm, I'm happy to hear you out but I think in this unique case, again with all the, with all the issues that, again, I don't know the case, but what I've been made aware of in the motions that are filed, I'm assuming I have it right, that there

was a county iPad.

[(30:10)] MR. WEBSTER: Yes, sir.

[(30:11)] THE COURT: And that at some point, Mr. Robertson and Mr. Turner, the allegations were talked it over, molded over trying to figure out if this is county property and if it is, can we look at it? Can we look behind the... can we look in that iPad notwithstanding requests made to Mr. Galloway allegedly to come log outta your Apple account, if you will. But at some point they go into this iPad or somebody at their direction and then they obtained some material, which the allegation being text messages. So I'm assuming that the state's allegation is that within that Apple account that belonged allegedly to Mr. Galloway were Apple text messages within his Apple account. And they went into his personal... the allegation is they went into Mr. Galloway's personal Apple account and they did it because he had used the government device being an iPad and logged into his Apple account at some point. And then apparently when allegation when Walton County reaches out to say, you need to come here and sign outta your account, Walton County receives the password from Mr. Galloway with the understanding he said, here's my password, log me out. And supposedly that's how they get access to his account, his Apple account. And then they used that later to, I'm just asking if I'm getting the facts. They somehow used that later to go find text messages.

[(31:41)] MR. WEBSTER: Depending on which version, uh, there, there's some variation there about whether the, uh, password was ever submitted or not. Um, but essentially, yes.

[(31:56)] THE COURT: Somehow they got access to.

[(31:58)] MR. MITCHELL: They had access to a county on iPad that had somehow been linked, not somehow had been linked to Charles Galloway's iCloud accounting and then iMessages, uh, text messages are being reviewed. The state filed one charge encompassing all that. And I have no issue with the court saying that we need to, uh, or granting the statement of particulars but that's gonna result in numerous other charges potentially. And I need the defendants to understand that and be in agreement.

[(32:43)] THE COURT: Well, I'm not gonna get involved in the plea negotiations. And that's, that's the discussion y'all can have. But again, I think they're entitled to be put on notice with what specifically you are charging them...

[(32:52)] MR. WEBSTER: Okay.

[(32:53)] THE COURT: ...for intercepting.

[(32:54)] MR. WEBSTER: Yes.

[(32:56)] THE COURT: And again, I'm not saying that you've gotta give the most detailed statement but I think you do need to give them something and maybe y'all can work on that together and come to something you could agree on. But if not, then I, I'm happy to weigh in further. But I do think they're entitled to some detail so they can prepare their defense and, and, um, you know, we've heard some of their defenses but I think they're entitled to know what was intercepted and not just the bland statement of text messages or messages and/or the like belonging to Charles Galloway. So maybe a, a, a date range would help of the date range of these messages. Um, I don't know what other details that y'all are asking for.

[(33:42)] MR. MITCHELL: I, I have a list of specific messages.

[(33:43)] MR. WEBSTER: And, and I would, I would like to know the, the device how,

you know, specify because normally like an intercept, I record you and you don't know I'm recording you, you know 'cause it's contemporaneous. I know you know this law better than I do. And, and so if it is the iPad itself, I just feel like they should specify that if they, that it was the iPad that they used to intercept.

[(34:04)] THE COURT: And, and Mr. Mitchell, if you're not wanting to give this up, just tell me, I'm not willing to give that up. But were they, is the allegation that they were observing or intercepting texts as they occurred live?

[(34:14)] MR. MITCHELL: No.

[(34:15)] THE COURT: Or these were past text messages?

[(34:19)] MR. MITCHELL: There, there is no indication. We don't have any indication at this time that they were actively.

[(34:28)] THE COURT: Intercepting live text messages.

[(34:30)] MR. MITCHELL: I don't, I don't have any evidence to show that it was getting a notification and they were going and looking at it right then.

[(34:37)] THE COURT: So what you believe is they get into the Apple iPad, um, get into the iPad and then get into Mr. Galloway's or obtain access to his personal Apple account and look at his personal text messages within that personal account.

[(34:50)] MR. MITCHELL: Correct.

[(34:51)] THE COURT: That's the allegation.

[(34:52)] MR. MITCHELL: Over a period of time after they're told not to.

[(34:59)] THE COURT: And that's the charges that are, are specific text messages between Mr. Galloway and whomever he's communicating with that were contained within his Apple account?

[(35:07)] MR. MITCHELL: Correct.

[(35:08)] THE COURT: Okay. Did y'all wanna be heard more on that or my intent is to have Mr. Mitchell get, take a shot at it, get that to you all.

[(35:19)] MR. MITCHELL: Yes, sir.

[(35:20)] THE COURT: How much time do you need Mr. Mitchell to get that done?

[(35:24)] MR. MITCHELL: I don't wanna limit myself.

[(35:25)] THE COURT: Uh-huh.

[(35:26)] MR. MITCHELL: Two weeks is two weeks, uh...

[(35:28)] THE COURT: Two weeks sufficient for you all?

[(35:30)] MR. WEBSTER: Yes, sir. And, and then with count two Judge, I think they did amend the information and they said gathering and collecting, um, messages or iMessages, things like that. And you know, I hope it was clear from my memorandum of law that I included that with respect to that particular account. It's unauthorized access of a device. It's not the data on the device so. And count two is kind of defective in the way it's framed 'cause it's framed as if it was the data and not the device. And once again, I just want the state to specify what computer device they weren't authorized to access, they did access. If it is the iPad, just say it's the iPad. Um, and, um, with respect to, 'cause it also says disrupt, deny and all that language. And I don't, I don't have any understanding of how my client disrupted or denied anything. And I just would like the state to specify if they are proceeding on that one of those additional, you know, kind of extraneous pieces of language in the statute that they provide some, uh, some understanding as to how my client allegedly disrupted or denied.

[(36:37)] THE COURT: So what you're, I think what you're getting at is are they limited

to that they had unlawful access to the computer itself or the device that being the iPad? Or are they also alleging they do say computer network? Are they also alleging that they went into the Apple account and that was part of what they believe was unauthorized access?

[(36:55)] MR. WEBSTER: Yeah. And did, did they... and then the disrupt, deny because, because I, I hope you, if you had a chance to just kind of see the case law, the courts have been clear that, that they said that, you know, the title means exactly what the statute says it does. It's unauthorized access to a computer device or network. And so, and if it's the iPad, I just want him to specify it was the iPad and nothing else.

[(37:16)] THE COURT: Alright. Mr. Mitchell, you understand his request?

[(37:18)] MR. MITCHELL: Yes.

[(37:19)] THE COURT: Okay. Alright. And is the state proceeding under disrupt, deny or any of the other language too? If, if you don't have to put it in writing, if you just tell me, no, that's fine.

[(37:27)] MR. MITCHELL: I'll, I'll get the information paired down.

[(37:30)] THE COURT: Alright.

[(37:33)] MR. MITCHELL: That's, thank you. That's, I think that addresses my concerns, judge.

[(37:34)] THE COURT: Alright. April 21, Mr. Mitchell, does that give you enough time? It's two weeks.

[(37:38)] MR. MITCHELL: Two, two [inaudible]

[(37:38)] THE COURT: If you need more time, let me know.

[(37:40)] MR. MITCHELL: I don't objection. I, I mean that, that should give an ample

time.

[(37:44)] THE COURT: Alright. That'll get y'all a copy of the statement in particulars.

And then if y'all have any disagreements, if you file a motion and we can have it heard on May 5th.

[(37:52)] MR. MITCHELL: I'll get on the phone and talk.

[(37:54)] THE COURT: Mr. Mitchell. Okay. I think that's always a good idea to talk.

[(37:56)] MR. MITCHELL: Thank you, Judge.

[(37:57)] THE COURT: Alright. What else do we need to take up then for these two cases? Anything else?

[(38:00)] MR. MITCHELL: [Inaudible] I guess, um, I'm gonna set it just reset.

[(38:03)] THE COURT: Pretrial.

[(38:05)] MR. WEBSTER: Based on the state was inclined to ask for a, uh, May trial date but been lied of the court's, uh, request for a statement or a new information. I don't think that's feasible. However, could we get the court to give some sort of scheduling order so we can, or or can the parties get together and get some sort of scheduling order to, to get this case resolved one way or another?

[(38:39)] THE COURT: That's fine with me. Uh, it is currently set, well it's, we need, need to set it so we could set it for pretrial on April 23rd if you want or we could set it for May 21st.

[(38:50)] MR. MITCHELL: I asked for May 21st. I kind of postponed my discovery while I was trying to get this issue resolved. And I still have some more depositions I want to take and...

[(38:56)] MR. WEBSTER: I, I think there's a lot of depositions.

[(38:57)] THE COURT: Alright.

[(38:58)] MR. WEBSTER: And everything.

[(38:59)] THE COURT: And especially again, whatever the state decides but if, if charges are added, then that may...

[(39:05)] MR. WEBSTER: Yes.

[(39:06)] THE COURT: ...cause for more discovery to be done but.

[(39:07)] MR. WEBSTER: [inaudible]

[(39:08)] MS. BOGENSCHUTZ: Judge

[(39:09)] MR. WEBSTER: May 21st, I'm sorry.

[(39:10)] THE COURT: May 21st for pretrial.

[(39:11)] MS. BOGENSCHUTZ: And I, I did wanna put on the record Judge, but we still haven't received the Cellebrite of this iPad. But most recent one was, uh, I, I think from the wrong case. Uh, and I, I wasn't sure what to do with it, but it was somebody who was very into admitting, um, as far as the pictures that were in the, the, uh, device. So I, I figured it was not having to do with this case.

[(39:31)] THE COURT: Alright. Mr. Mitchell, you'll look into that and give a copy of the Cellebrite.

[(39:34)] MR. MITCHELL: Yes, your Honor.

[(39:35)] THE COURT: And that's gonna be of the iPad?

[(39:37)] MR. MITCHELL: Yes.

[(39:38)] MS. BOGENSCHUTZ: Uh, yeah, there was a full Cellebrite done by, uh, FDLE of the iPad. And then there was a limited one that was done by, uh, we'll call it [inaudible], we'll call, sorry, Walton Sheriff's office.

[(39:48)] THE COURT: Okay. Okay. Is that something you can get to them by April 21 as well?

[(39:54)] MR. MITCHELL: I will get on the...

[(39:55)] THE COURT: I'm not...

[(39:56)] MR. MITCHELL: ...email soon, as soon as I leave here and try to get it done, get them to them as soon as possible, your Honor.

[(40:03)] THE COURT: Okay. Alright. Anything else then on this case or these two cases?

[(40:06)] MR. MITCHELL: Thank you for your time, Judge.

[(40:08)] MR. WEBSTER: The, the only other thing your Honor, is, uh, I don't know if the court wants to inquire. Not there's a DPA offered that's off the table today and so I don't know if the court wants to inquire of the clients or not.

[(40:20)] THE COURT: I don't know if Mr. Turner or Mr. Robertson are able to hear.

[(40:25)] MS. BOGENSCHÜTZ: I believe they are, Judge. Or at least.

[(40:28)] MR. TURNER: I, I can hear, sir. This is Mr. Turner. I can hear.

[(40:30)] THE COURT: Alright. Mr. Turner. Mr. Robertson are be able to hear as well?

[(40:36)] MR. ROBERTSON: I can hear, sir.

[(40:37)] THE COURT: Alright. Did y'all hear the state attorney's office indicate the de, deferred prosecution agreement would be revoked as of today?

[(40:46)] MR. TURNER: Yes, your Honor.

[(40:47)] THE COURT: Alright. If you could just tell me your...

[(40:48)] MR. ROBERTSON: Yes, sir.

[(40:49)] THE COURT: Each of you tell me your name and that you understand that,

please?

[(40:54)] MR. ROBERTSON: Quinn Robertson, I understand that the state has taken away the offer.

[(41:01)] THE COURT: For the DPA. Alright. Mr. Turner, if you could tell me your name and say you understand that as well?

[(41:08)] MR. TURNER: Uh, Joseph Turner. I understand that the DPA has been denied or, uh, rescinded. I was never gonna accept it anyway.

[(41:13)] THE COURT: Okay.

[(41:14)] MR. TURNER: Yes.

[(41:15)] THE COURT: Alright. Anything else from Mr. Mitchell?

[(41:17)] MR. MITCHELL: No, sir.

[(41:18)] THE COURT: Alright. See everybody May 21. Mr. Turner and Mr. Robertson, that'll conclude this hearing. Stay in touch with your attorneys. See you May 21.

[(41:24)] MR. TURNER: Thank you.

[(41:25)] MR. ROBERTSON: Thank you.

[(41:26)] MR. MITCHELL: Thank you for your time.

[(41:27)] THE COURT: Okay.

[(41:28)] MS. BOGENSCHUTZ: Thank you, Judge.

[(41:28)] THE COURT: Alright. Everybody have a good day. Alright. Then, Mr. Patel, you ready to go forward on yours?

[(41:36)] MR. PATEL: We are, Judge.

[(41:37)] THE COURT: Would this be our last hearing for the day? This is the last one for the morning?

[(41:45)] MR. PATEL: Yes, your honor.

[(41:46)] THE COURT: Sir, what's your name?

[(41:48)] MAN 1: [Inaudible] um, chief [inaudible]. I've been here all day.

[(41:52)] THE COURT: Yeah. Maybe call Mr. Albritton.

[(41:54)] MAN 1: [inaudible] to talk to him.

[(41:55)] THE COURT: Oh, Mr. Albritton?

[(41:57)] MR. ALBRITTON: Yes, sir. I, I apologize to [inaudible]

[(41:59)] THE COURT: That's okay. Alright. Come on up, sir. Alright. Mr. Albritton, we tried to call you earlier, that's okay. Mr. Bofonchik your motion to withdraw plea the state have an objection to that?

[(42:13)] MS. BOGENSCHUTZ: Uh, yes sir. I believe I need good cause.

[(42:15)] THE COURT: Alright. What's your cause Mr. Albritton?

[(42:20)] MR. ALBRITTON: Um, Mr. Bofonchik has, uh, represented that he was not informed of the consequences of his plea and therefore has elected to try to withdraw it.

[(42:31)] THE COURT: What consequences was he not aware of?

[(42:34)] MR. ALBRITTON: Can we put him under oath?

[(42:37)] THE COURT: Alright. Mr. Bofonchik, let me have you raise your right hand. Do you swear and affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

[(42:41)] MR. BOFONCHIK: Yes, sir.

DIRECT EXAMINATION BY THE COURT:

[(42:42)] Q. Tell me your name, please?

[(42:43)] A. Terry Bofonchik.

[(42:44)] Q. How do you spell your last name?

[(42:45)] A. B-O-F-O-N-C-H-I-K.

[(42:47)] Q. What's your date of birth?

[(42:48)] A. 8/8'79.

[(42:50)] THE COURT: Okay, Mr. Albritton, if you wanna ask Mr. Bofonchik questions.

CROSS-EXAMINATION BY MR. ALBRITTON:

[(42:54)] Q. Mr. Bofonchik, what specific consequences of the plea were you not informed of when you entered into it?

[(43:02)] A. The whole thing.

[(43:06)] Q. All right. So, um, we've discussed this before and I just kind of wanna make clear for the court. Do... you did not, um, have an opportunity to discuss the, the, the consequences or the nature of this plea with your prior attorney?

[(43:23)] A. No, sir.

[(43:25)] Q. And at this point in time, you would like to reverse your decision to, uh, enter a plea with no contest to the charge, a misdemeanor charge? [(43:34)] A. Yes, sir.

[(43:35)] Q. Is that correct?

[(43:36)] A. Yes, sir. Yes, sir.

[(43:41)] THE COURT: Alright. Ms. Lyes, you have any questions?

[(43:42)] MR. ALBRITTON: [Inaudible]

[(43:43)] THE COURT: Oh, Mr. Albritton, you're not done.

[(43:45)] MR. ALBRITTON: Well, I, I just mean at this point in time you understand, we, we've discussed this that this would put you basically in, uh, position zero. You know, we, we back, back to restart the whole case.

[(44:00)] MR. LYES: Well, I would put him in a worse position. He scored prison on as charged. There was a negotiated plea to a lesser included misdemeanor where he would get nine months county jail and he would be, if he were to withdraw the plea, that jail offer would be off the table and he would go back to scoring prison. So not ground zero.

[(44:25)] MR. ALBRITTON: And I believe he understands that but thank you. Period.

[(44:29)] THE COURT: Alright. Mr. Albritton, is that all?

[(44:30)] MR. ALBRITTON: [Inaudible]

[(44:32)] THE COURT: Go ahead.

BY MR. ALBRITTON:

[(44:33)] Q. Mr. Bofonchik, you understand that right?

[(44:35)] A. Yes, sir.

[(44:39)] THE COURT: Are any other questions?

[(44:41)] MR. ALBRITTON: No, sir.

[(44:42)] THE COURT: Or state?

EXAMINATION BY MS. LYES:

[(44:43)] Q. Uh, Mr. Bofonchik, you went through a written plea agreement and you signed it, is that right?

[(44:47)] A. Yes, ma'am.

[(44:48)] Q. And you went through and answered the questions asked of you by the court when they entered that plea?

[(44:54)] A. Yes, ma'am.

[(44:48)] Q. But you asked for a delayed sentencing date, uh, for the following month in

March?

[(45:00)] A. Yes, ma'am.

[(45:01)] Q. And then March came and instead of coming for sentencing as you agreed to, you hired a new attorney instead?

[(45:08)] A. Yes, ma'am. Yes, ma'am. I had, I had, uh, come across the means to hire an attorney to get a second opinion.

[(45:15)] Q. Okay.

[(45:19)] THE COURT: Any other questions?

[(45:20)] MS. LYES: No, sir.

FURTHER DIRECT EXAMINATION BY THE COURT:

[(45:21)] Q. Alright. Mr. Bofonchik, I, I was the presiding judge and I specifically went over the terms of the plea agreement with you and I ask you, did you understand that you're pleading to the charges? I went through each one, the maximum penalties, and then I went through the terms of the plea agreement and I ask if you understood, did you not recall me going through those questions with you?

[(45:44)] A. Oh, I do, yes.

[(45:46)] Q. You remember me going over the maximum penalty and then telling you what the terms which included adjudication nine months in jail, 60 days on count two, and then your fines in court costs. And I ask you on that date, did you understand the nature of the charge and you understand the terms of the plea agreement and you indicated that you did. Did you recall that?

[(46:05)] A. Yes, sir.

[(46:06)] Q. And I asked you if you had gone over the terms with your attorney and you

had indicated that you did and that you had any questions, he answered them for you and you were satisfied with his representation. You recall saying that?

[(46:17)] A. Yes, sir.

[(46:18)] Q. Why, why now are you saying that you all of a sudden don't understand the terms?

[(46:22)] A. It just happened so fast. I wanted to get a second opinion. I had the means to get the attorney.

[(46:28)] Q. And now that you've had a second opinion, you believe it's in your best interest to withdraw this plea and then, and what's your hope after that?

[(46:36)] A. Hopefully, hopefully we can come to some of the agreement.

[(46:41)] Q. Well, you have to have good calls to withdraw the plea. Is there anything else that you would like the court to hear?

[(46:46)] A. Just that I've gotta paid the attorney.

[(46:49)] THE COURT: Alright. Mr. Albritton, anything else?

[(46:50)] MR. BOFONCHIK: Give him enough time to do what he's gotta do.

[(46:54)] MR. ALBRITTON: Your Honor, I believe that, um, under the law he has the statutory and constitutional right to withdraw his plea if he wants to, um, at any time prior to sentencing. So I mean as far as good cause and everything, he's, um, he's alleged that he did not understand terms of the plea. So I would say that at this point, even though the court went to the [inaudible] the plea and everything else that, um, he's entitled to withdraw if you want to.

[(47:30)] THE COURT: Are... you have any authority that says that?

[(47:33)] MR. ALBRITTON: Uh, I can provide a memo.

[(47:34)] THE COURT: I'm sorry

[(47:35)] MR. ALBRITTON: I don't have it. I don't have it right now but...

[(47:37)] THE COURT: Alright. If you want to submit it, I'll give you the end of the week if you wanna submit it and Ms. Lyes, if you wanna respond, I'll give you seven days after the receipt of it. So Mr. Albritton, if you wanna substitute what you filed, send it to the court, make sure you copy Ms. Lyes and I'll take it under advisement and get you on order.

[(47:55)] MR. ALBRITTON: Certainly. Yes, sir.

[(47:56)] THE COURT: Alright. Mr. Bofonchik, you understand, I'll take it under advisement and get an order. Given your attorney a chance to supplement the file, show me what authority I have to with... accept this withdrawal, the plea even though good cause is not shown, I don't think you have shown good cause to withdraw the plea but I'll reserve my ruling until I read anything else Mr. Albritton has to offer. Okay?

[(48:15)] MR. BOFONCHIK: Yes, sir.

[(48:16)] THE COURT: Alright. Do we need to set this then for a control date? Anybody have? All right. Do y'all wanna set it for a pretrial on April 23rd?

[(48:30)] MS. LYES: Yes, sir.

[(48:31)] THE COURT: Mr. Albritton, any issue with that?

[(48:34)] MR. ALBRITTON: No objection, Judge.

[(48:36)] THE COURT: Or we could put it for the motion date on 5/5. That's up to y'all.

[(48:40)] MR. ALBRITTON: I say April 23rd I think will be.

[(48:42)] THE COURT: What's that?

[(48:43)] MR. ALBRITTON: [Inaudible]

[(48:44)] THE COURT: What's that, Mr. Albritton?

[(48:46)] MR. ALBRITTON: 4/23 would be fine with me sir.

[(48:48)] THE COURT: Alright. April 23rd then Mr. Bofonchik stay in touch with Mr. Albritton and pick up your notice. We'll see you back April 23rd.

[(48:52)] MR. BOFONCHIK: Yes, sir.

[(48:53)] THE COURT: Make sure you're here. Obviously, if Mr. Albritton files a waiver, then that'll waive your need to be here but if not, you'll have to be here. Okay?

[(49:00)] MR. BOFONCHIK: Yes, sir.

[(49:01)] MS. LYES: Uh, Judge, potentially it's here for...

[(49:02)] THE COURT: A sentencing.

[(49:03)] MS. LYES: ...sentencing I would ask that his appearance not be waived.

[(49:07)] THE COURT: Alright. I won't waive his appearance then Mr. Albritton unless you get an order otherwise he'll need to be there on April 23. So if I grant the request to withdraw then he could waive his appearance, but if not, I'll need to be there on April 23rd. Okay?

[(49:17)] MR. ALBRITTON: Yes, sir.

[(49:18)] MR. BOFONCHIK: Yes, sir.

[(49:20)] THE COURT: Alright. Good day, Mr. Bofonchik.

[(49:21)] MR. BOFONCHIK: Thank you.

[(49:22)] THE COURT: Mr. Albritton and good day to you.

[(49:23)] MR. ALBRITTON: Thank you.

[(49:24)] THE COURT: Okay. Alright. Let's see, Mr. Patel, you ready for your case?

[(49:32)] MR. PATEL: Yes, Judge.

[(49:35)] THE COURT: Alright. Remind me this is Mr. Sanders or Mr. Stottlemeyer?

Which one? I've got three written down from Ocean Suppress.

[(49:43)] MR. PATEL: Stapleton Station.

[(49:44)] THE COURT: Stapleton, that was my third one. Okay. I was trying to separate all the different types of cases today so that I could try to get us through them but I didn't succeed. Alright. Chance Stapleton...

[END]

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