

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No. 25-3326

In re: Richard Haile McWilliams

Petitioner

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:24-cr-00049-RFR-1)

JUDGMENT

Before SHEPHERD, GRASZ, and STRAS, Circuit Judges.

The petition for writ of mandamus and the supplemental petition have been considered by the court and are denied. Mandate shall issue forthwith.

January 28, 2026

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

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Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:24-cr-00049-RFR-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

February 26, 2026

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THE UNITED STATES OF AMERICA,) Case No. 8:24CR49
)
Plaintiff,)
)
vs.)
)
DAMIEN WELLS,)
) Omaha, Nebraska
Defendant.) November 14, 2025

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT F. ROSSITER, JR.
CHIEF UNITED STATES DISTRICT JUDGE

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF: Ms. Kimberly C. Bunjer
Mr. Patrick E. McGee
Assistant U.S. Attorneys
1620 Dodge Street, Suite 1400
Omaha, Nebraska 68102

FOR THE DEFENDANT: Mr. Richard H. McWilliams
Acting Federal Public Defender
222 South 15th St., Suite 300N
Omaha, Nebraska 68102

COURT REPORTER: Ms. Susan M. DeVetter, RDR, CRR
Official Court Reporter
Hruska Courthouse, Suite 3130
111 South 18th Plaza
Omaha, Nebraska 68102-1322
(402) 661-7309

Proceedings recorded by certified stenographer, transcript
produced with computer.

1 (At 9:35 a.m. on November 14, 2025; with counsel and the
2 defendant present:)

3 THE COURT: We are on the record in Case 24CR49,
4 United States of America versus Damien Wells. We're here --
5 trial is set to begin Monday and we're here on two motions in
6 limine by appointed counsel for Defendant in this matter.

7 Who appears for the government today?

8 MS. BUNJER: Good morning, Your Honor. Kimberly
9 Bunjer and Patrick McGee for the United States.

10 THE COURT: All right. And for the defendant?

11 THE DEFENDANT: I enter this court by restricted
12 appearance, reserving all rights without prejudice. I do not
13 consent to the jurisdiction of this court.

14 THE COURT: All right. Counsel, would you enter your
15 appearance, please.

16 THE DEFENDANT: I enter this court by restricted
17 appearance, reserving all rights without prejudice. I do not
18 consent to the jurisdiction of this court.

19 THE COURT: All right.

20 THE DEFENDANT: This court is in violation of
21 Chapter -- Nebraska Revised Statute Chapter 24-734(d) and (c).

22 THE COURT: All right. Mr. Wells, I understand
23 your --

24 THE DEFENDANT: I enter this court by restricted
25 appearance --

1 THE COURT: -- position. I am going to --

2 THE DEFENDANT: -- reserving all rights --

3 THE COURT: Turn off that microphone, please.

4 THE DEFENDANT: -- without prejudice. I do not
5 consent to the jurisdiction of this court.

6 THE COURT: Turn off that microphone. Thank you.

7 And who appears -- please give me your appearance.

8 THE DEFENDANT: I enter this court by restricted
9 appearance --

10 MR. McWILLIAMS: Richard McWilliams is here.

11 THE DEFENDANT: -- reserving all rights without
12 prejudice.

13 THE COURT: Mr. Wells, if you --

14 THE DEFENDANT: I do not consent to the jurisdiction
15 of this court.

16 THE COURT: If you continue this --

17 THE DEFENDANT: I enter this court by restricted
18 appearance --

19 THE COURT: -- I am going to remove you from the
20 courtroom.

21 THE DEFENDANT: -- reserving all rights without
22 prejudice. I do not consent to the jurisdiction of this court.

23 THE COURT: I understand that but you are here and --

24 THE DEFENDANT: I demand that these charges be
25 dismissed immediately.

1 THE COURT: -- jurisdiction does apply, so...

2 THE DEFENDANT: I enter this court by restricted
3 appearance, reserving all rights --

4 THE COURT: I am going to give you one more chance
5 to --

6 THE DEFENDANT: -- without prejudice.

7 THE COURT: -- move forward --

8 THE DEFENDANT: I do not consent to the
9 jurisdiction --

10 THE COURT: -- with this hearing --

11 THE DEFENDANT: -- of this court.

12 THE COURT: -- with you present.

13 THE DEFENDANT: I enter this court by restricted
14 appearance --

15 THE COURT: If you continue to do that --

16 THE DEFENDANT: -- reserving all rights --

17 THE COURT: All right. I would ask the marshals --

18 THE DEFENDANT: -- without prejudice.

19 THE COURT: -- to remove Mr. Wells --

20 THE DEFENDANT: I do not --

21 THE COURT: -- from the courtroom.

22 THE DEFENDANT: -- consent to the jurisdiction of
23 this court.

24 THE COURT: All right.

25 THE DEFENDANT: I enter this court by restricted

1 appearance, reserving all rights without prejudice. I do not
2 consent to the jurisdiction of this court.

3 (The deputy marshals removed Mr. Wells from the
4 courtroom.)

5 THE COURT: All right. Counsel, would you enter your
6 appearance.

7 MR. McWILLIAMS: Richard McWilliams --

8 THE COURT: Yes.

9 MR. McWILLIAMS: -- on behalf of Mr. Wells, who is
10 now absent.

11 THE COURT: All right. I will state for the record,
12 and this is based upon Mr. Wells' disruption of every
13 magistrate judge hearing in this case, that, assuming that
14 might be -- not assuming, but given the chance that that might
15 be the case here, I have made sure that audio and video hookup
16 is available to Mr. Wells in the holding cell adjacent to our
17 courtroom here.

18 So having said that, we have before us a number of things.
19 Let's deal with the -- the motion in limine on the motion to
20 withdraw. And I'll -- I'll hear from you on this.

21 I -- I fully understand the position that you -- that this
22 puts you in. I've done, and my staff has done, a lot of
23 research on this. This is -- I don't know if he's a sovereign
24 citizen but this is right out of that -- that playbook.

25 If this continues, and I will, as the circuit tells me I

1 must, I will give him ample opportunities during the trial, at
2 breaks, to not be disruptive, but if he continues that, he will
3 be listening to the trial remotely.

4 I understand that you have not -- that he has refused
5 to -- to talk to you as his attorney. But given the
6 circumstances here, I think we're in a situation where he has
7 to have some representation, but I -- I fully understand, and
8 I've read -- and I read the -- the briefing that you've done
9 and the -- and the case law, but I'll -- I'll hear from you
10 now, Mr. McWilliams.

11 MR. McWILLIAMS: Thank you.

12 First, I -- I have submitted an exhibit by way of CM/ECF.
13 It's Defense Exhibit 101. It's a 25-page document. It
14 includes within it just a -- a sampling of the refused mail
15 that I have sent in support of the proffer that I -- that I
16 include within docket entry 121.

17 The only part of it that I think deserves any explanation
18 is -- are the last four pages, which are screenshots of my
19 email, for lack of a better term. And this simply is included
20 to illustrate that when I try to communicate with Mr. Wells
21 using the Douglas County Correctional Center's Smartinmate
22 communications system, I have to request permission through the
23 system to do that, but the -- the detainee has the authority to
24 disconnect me as a contact, so every time I want to send a
25 message, I -- I get -- I submit an application and it gets

1 approved, but then it gets -- for most of my clients, I do this
2 one time, even if they're in the jail for months or years. As
3 you can see from this screenshot, I have to do it every single
4 time because every time, it would appear, Mr. Wells accesses
5 the system, he disconnects me as one of his contacts.

6 So I offer Defense Exhibit 101 to start.

7 THE COURT: Any objection?

8 MS. BUNJER: No, Your Honor.

9 THE COURT: All right. And that's -- that's on the
10 ECF system, so I'll just -- I'll take judicial notice of that.

11 MR. McWILLIAMS: Thank you.

12 Thereafter, I would ask the Court to take judicial notice
13 of two dockets, both the present one, 24CR49, and the parallel
14 supervised release docket, which is at 8:01CR113.

15 And I -- I have highlighted a number of specific passages,
16 but what they boil down to are the text minute entries in front
17 of the magistrate judges and also the audio files that
18 accompany it. As you can imagine, the text minute entries
19 don't always do the -- the hearing justice, so to speak.

20 But what both of these -- and I won't go through and
21 number all of the entries, but, I mean, the -- the through line
22 for both of these is that Mr. Wells has, in -- since his
23 original arrest for this offense, the offense that he is going
24 to stand trial for on Monday, currently, he has never requested
25 a lawyer and all attempts to appoint a lawyer have been either

1 actively rebuffed by Mr. Wells -- As the Court saw just in
2 this hearing, and that is par for the course, when -- whenever
3 the Court has asked the defense counsel to enter his
4 appearance, and that has really -- it's only ever been me or
5 Mr. Black for a brief moment -- Mr. Wells has -- has intervened
6 and entered his own appearance.

7 So --

8 THE COURT: Or -- or not.

9 MR. McWILLIAMS: Or not. Or -- or simply said
10 whatever he wanted to say.

11 But the bottom line is, is that the way that -- my -- my
12 loyalty is twofold here and it is with the client and the --

13 THE COURT: Are you -- I guess I should ask you: Are
14 you okay with the government being in here for this part?

15 MR. McWILLIAMS: Yeah.

16 THE COURT: Okay.

17 MR. McWILLIAMS: Miss Bunjer was -- was present for
18 the last one. And the reason I am okay with the government
19 being here is because there is no communication -- there's
20 no -- nothing privileged to divulge. There is no
21 attorney-client relationship present. And -- and that is why I
22 have filed this motion, because I have -- I have twin concerns.
23 And my loyalty to Mr. Wells and my loyalty to the Sixth
24 Amendment demand that I -- I press the Court on this issue.

25 In terms of the Sixth Amendment, just as Mr. Wells has the

1 right to have court-appointed counsel, if he can't afford it,
2 he also has the right to be free from having counsel foisted
3 upon him if he does not want it.

4 And I have seen --

5 THE COURT: Well, but what about -- what about the
6 cases that say -- and I've done -- the *Edelmann* case talks
7 about *Faretta* and says a "trial judge may terminate
8 self-representation by a defendant who deliberately engages in
9 serious and obstructionist misconduct."

10 Isn't that what we have here?

11 MR. McWILLIAMS: I -- well, in each of the Eighth
12 Circuit cases that deal with the termination of
13 self-representation, one -- they are -- they always emphasize
14 timing --

15 THE COURT: Right.

16 MR. McWILLIAMS: -- and that is the defendant has to
17 at least be given a chance to begin the trial without -- has to
18 at least be given the chance to begin the trial.

19 But then second --

20 THE COURT: I'll give -- I'll give him that chance
21 Monday but I -- I'm afraid that we're looking at the same
22 thing. I'm not gonna prejudge it, but I will attempt, prior to
23 bringing in the jury, to -- to conduct another *Faretta* hearing.

24 MR. McWILLIAMS: My -- my -- my position is that if
25 we are strictly adhering to the Sixth Amendment, what should

1 happen here is that Mr. Wells should be allowed to proceed
2 pro se, to begin the trial pro se, and if he is disruptive,
3 then the Court can re- -- I mean, I'm not advocating for
4 this --

5 THE COURT: Right.

6 MR. McWILLIAMS: -- but I would say the case law
7 supports the idea that the Court can terminate
8 self-representation and/or remove him from the courtroom.

9 What I don't believe -- I don't believe --

10 THE COURT: What happens then?

11 MR. McWILLIAMS: I don't -- well, and this is where I
12 think the Court is making an inferential leap that I don't
13 make, which is to say that the termination of the rights to
14 self-representation includes the requirement that the Court
15 then put a mouthpiece here on Mr. Wells's behalf.

16 Because my second concern, as I've articulated, is that if
17 Mr. Wells is removed from the courtroom or -- or if he decides
18 to allow me to -- to work, when we start trial on Monday, it
19 might look good, you know, I might ask some tough questions and
20 I might remind the jury of their requirements with reasonable
21 doubt or whatever, but it's still not competent representation.
22 I mean, it's by definition incompetent. Because I've not
23 spoken to Mr. Wells. He's not spoken to me about what the
24 defense is, what the facts are.

25 When the Court asks: Is the defendant gonna offer any

1 evidence? I don't know. If the Court asks: Is the defendant
2 gonna testify? I don't know. I'm not -- I -- I doubt he would
3 even put on street clothes if I provided them.

4 The bottom line is, is that the Court is putting me in a
5 position where I am dealing with the -- the -- the twin
6 problems of ineffectiveness and incompetency. And
7 ineffectiveness is the Court's word, but competency is the
8 Counsel for Discipline's word, and I'm gonna be incompetent.

9 And so I -- I sympathize with the Court, just as the Court
10 sympathizes with me. I know that the Court didn't create this
11 situation, and the United States didn't even really create this
12 situation. It's -- it's created on this side of the aisle.
13 But, one, if this is the way -- if this is Mr. Wells's defense,
14 if this is what he wants to present to a jury of his peers, I
15 think he should be allowed to do it.

16 And to -- to allow the Court -- or to have the Court put
17 the veneer of Rich McWilliams over that and remove his voice
18 from the courtroom and have me putting together whatever I
19 think is the best idea --

20 THE COURT: He's -- he's removed -- assuming things
21 go as they have for the past year or more, he's removing his
22 own voice, so -- and I know you're not advocating this 'cause
23 you're in a -- you're in a tough position, but if Rich
24 McWilliams, or whoever else, is out of this courtroom and
25 things have gone -- go the way that they have in the past, then

1 the government -- I mean, that's not competent representation
2 of himself. I guess what you're saying is he's -- he's made
3 that decision. I mean, the government can just plow through
4 and -- and put on their case if he's repeatedly removed, at the
5 breaks.

6 MR. McWILLIAMS: And that would be your business,
7 Your Honor, respectfully -- respectfully. You know, I mean,
8 that's kinda the way that I view it.

9 I -- my concern is that -- my concern is my office and --
10 and myself being used as a -- as a legitimatization tool for a
11 travesty. And I'm -- I'm using those -- and again, it's not a
12 travesty of the Court's creation, and I'm not -- I'm not trying
13 to be inflammatory there; but if -- if the government arrests a
14 citizen of this country and puts them on trial and that citizen
15 wants a lawyer, that's what my office exists for, to provide
16 them with -- with zealous representation even if they can't
17 afford it. But if the government arrests a citizen and puts
18 them on trial and they want to -- to chant or to put forward
19 their own legal theories, however unconventional, I believe the
20 Sixth Amendment grants them -- them that right as well.

21 And in the cases that I cited in my motion to withdraw,
22 both the motion to withdraw and then the -- the follow-on
23 motion, the motion in limine to keep him in the courtroom,
24 suggests that the bar is not just making a fool of oneself for
25 being disruptive but it -- but, really, proactively violent

1 conduct.

2 And so sitting -- you know, I think he has a Sixth
3 Amendment right to do that if he wants to do that and to not
4 have my office thrust upon him.

5 And then, concurrently, I think I have a -- an ethical
6 obligation to raise to the Court my concerns that I am not
7 going to be competent.

8 And I have -- I have put this matter to Mark Weber -- I've
9 not yet heard back from him -- asking, What is the -- what is
10 the ethically correct reply here?

11 But the bottom line that I keep coming to, Your Honor, and
12 the -- the conclusion that I come to is that, in terms of
13 competence and effectiveness, the idea of the government
14 prosecuting an empty chair, the government prosecuting a
15 chanting defendant sitting by himself, and the government
16 prosecuting Mr. Wells with me just sitting here by myself are
17 all fundamentally the same in terms of competence and
18 effectiveness and in terms of compliance with -- in terms of
19 compliance with the Sixth Amendment, though there's only -- the
20 one with me here is the one that violates Mr. Wells's rights to
21 the Sixth -- under the Sixth Amendment.

22 THE COURT: I -- I guess I don't think it does under
23 *Edelmann*, given the -- what he's -- and -- and let's talk
24 about -- I guess there's an overlap. Let's talk about your
25 other motion in limine, the non-removal of the courtroom.

1 How -- how do we -- assume that Rich McWilliams is not sitting
2 there -- assume that Rich McWilliams is sitting there. This is
3 my first interaction with Mr. Wells. Turning off the
4 microphone isn't going to allow anybody to be heard, allow the
5 trial to go forward. And you saw what we did -- what he just
6 did when I turned off his microphone, he came over to your
7 microphone. He is hell-bent, at least to this point, in
8 disrupting these proceedings. How in the world -- well, I'll
9 let you make your argument on motion in limine number two.

10 And I'm -- I'm perfectly fine with him -- and I will --
11 I -- I will for my own sake and for the sake of, you know,
12 Eighth Circuit and other case law, bring him in after every
13 break, or at least morning and noon, and give him an
14 opportunity to -- to go forward in the -- in the courtroom, but
15 if we see what we saw this morning and what we have seen
16 consistently in every magistrate judge's courtroom, how in the
17 world do we proceed with -- with court, which is his aim?

18 MR. McWILLIAMS: First of all, I don't -- I don't
19 purport to offer the Court solutions to that problem. Okay? I
20 do believe, again, respectfully, that that is a problem for the
21 United States and that is a problem for the Court and probably
22 a problem for the U.S. marshals. I should not be the solution
23 to that problem is what I'm saying to the Court.

24 THE COURT: Well, but you're -- you're making the
25 argument on motion in limine two.

1 MR. McWILLIAMS: And -- and I am. And I'm -- but I'm
2 just -- that is -- there's a necessary and inherent
3 interrelation between motion in limine number one and motion in
4 limine number two, is that I should not be the solution to the
5 disruption problem.

6 I get it that at times -- I'm trying not to sound flip --
7 that prosecuting people and putting them in prison is going to
8 be difficult. Some cases are going to be more difficult than
9 others and some trials are going to be more difficult than
10 others. What I'm saying is that the Sixth Amendment should not
11 be used as a solution to the problem. I am not, and I should
12 not be, a facilitator of it.

13 And so I get it that the -- I understand the Court's
14 quandary with, well, what do we do if he just chants the whole
15 time and there's no -- there's no guy sitting in the suit to
16 take over when I remove him? And my position is, is that --
17 and part of the reason why I think this is an important
18 corollary, this motion in limine number two is an important
19 corollary, is that the -- the Office of the Federal Public
20 Defender shouldn't be a tool to solve the problem of difficult
21 defendants. It's going to be hard sometimes and the Court's
22 gonna have to craft solutions, and there might even be a -- a
23 trial where there are some bad optics where the government has
24 to prosecute an empty chair from time to time. And again,
25 the -- ever -- someone else can decide the legal impact of

1 that, whether that is or is not acceptable and the Court of
2 Appeals and this Court can -- can shape the contours of it.

3 My problem is the idea of if I'm sitting in here by myself
4 and I'm, you know, making my -- not -- doing more than just
5 sitting on my hands passively resisting, then the Court of
6 Appeals is going to cite that, the jury is going to notice
7 that, and they're gonna use that as a basis to feel better
8 about Mr. Wells's conviction, even though Mr. Wells's message,
9 the message that he wants to deliver to the jury, has been
10 effectively silenced and replaced with a white-washed public
11 defender message. And -- and I think that violates the Sixth
12 Amendment.

13 So what I think ought to be is that I ought to be allowed
14 to withdraw. Mr. Wells ought -- I mean, entirely. Not as --
15 not placed as standby counsel. And Mr. Wells ought to begin
16 his trial whenever -- Monday or whenever, and the Court can
17 take my filing at 122 for whatever it's worth once the trial
18 begins, but, again, what I -- what I steadfastly believe is
19 wrong, both under the Sixth Amendment and in terms of my
20 ethical obligations, is to use me to solve the problem of
21 disruption.

22 Because, I mean, just imagine this, Your Honor, and I'm --
23 and I -- I don't -- I'm --

24 THE COURT: I'm not using you -- if -- if I kept you
25 in, it's not using you to solve the disruption. The

1 disruption's not going to occur, on a regular basis.

2 MR. McWILLIAMS: Okay. But --

3 THE COURT: The record is going to reflect that he
4 refused to talk to you. The record is going to reflect that to
5 this point he has been deliberately obstruct- -- deliberately
6 and seriously obstructionist, and at this point it appears he's
7 willing to do that.

8 You've not been able to talk to him in terms of his theory
9 of the case, but his theory of the case so far is you have no
10 jurisdiction over me, and I think that's gonna be the theory of
11 his case going forward.

12 Again, I -- I don't see that -- that -- and you've made
13 the request repeatedly to be let out. I don't see where that
14 is an ethical violation, and I'm not Mark Weber, but I don't
15 see where that -- you have done everything that you think you
16 need to do ethically in this circumstance and if the Court
17 keep -- if I keep you in, that's on me, not on -- on you from
18 an ethics perspective.

19 All right. Go ahead. I'm sorry. I'm just thinking out
20 loud as we're...

21 MR. McWILLIAMS: No, I -- I understand.

22 I lost my train of thought.

23 THE COURT: Take your time.

24 MR. McWILLIAMS: Yeah.

25 THE COURT: There's a lot going on.

1 MR. McWILLIAMS: Yeah. I think that my -- my point
2 is simply that if -- if I am -- if I am required to stay on,
3 then every single decision that I make in the trial is going to
4 be uninformed. And as the Court knows, it's -- there's not
5 just a straight defense playbook. There are some -- there are
6 some decisions that are mutually exclusive along the way. And
7 so it's just a shot in the dark, really. And -- oh, I remember
8 what I was gonna say.

9 If the Court keeps me in and says, okay, Rich, just do
10 your best, which is what you're effectively asking me to do is
11 just do your best, then there is a class of defendant who will
12 think to themselves, okay, well I can still get a pretty good
13 shot out of a -- out of a lawyer and maintain my -- my defiant
14 posture.

15 I'd say that --

16 THE COURT: Well, there's also a class that would say
17 if I let you out, this is the -- this is the playbook --

18 MR. McWILLIAMS: Sure. I mean --

19 THE COURT: -- just chant the whole time, it'll take
20 them a year and a half to get to trial and -- you know, they
21 can play whatever game, and that's hypothetical, not this
22 person, but play whatever games they play, but I think it's --
23 I -- I think it's a hazard either way.

24 MR. McWILLIAMS: I -- I understand. I -- Your Honor,
25 I -- I feel like -- well, I've made my argument. I don't

1 wanna -- I don't wanna beat the dead horse here. I think the
2 fact that really resonates with me and I think that is very
3 important is that Mr. Wells has never asked for a lawyer and I
4 think that that -- I don't know that that meaningfully
5 differentiates him from the other people who have been removed
6 or the sovereign citizens or whatever.

7 THE COURT: Right.

8 MR. McWILLIAMS: But again, and this comes -- this is
9 a conversation that I had with Judge Carson. I don't know what
10 the default is. If you bring in a -- a competent but
11 noncooperative defendant who is maybe indigent or maybe not
12 indigent and they don't comply, what is the default? And this
13 is a question that -- probably for the Criminal Justice Act and
14 certainly for the -- for the courts, but what is the default?
15 If a magistrate judge has someone on an initial appearance and
16 they are not engaging and they are not answering questions,
17 they've not completed a financial affidavit, what is the
18 default?

19 And I feel like in this case, the default has been to use
20 counsel as a mechanism for overcoming the nonresponsiveness as
21 opposed to a meaningful request from an indigent defendant who
22 simply wants to be kept on the same plane and receive the same
23 due process that a non-indigent defendant would be.

24 And that's -- that's -- that's my truck here, is that if
25 the Sixth Amendment means anything, it means poor people should

1 get elite representation but then also people who don't want
2 representation shouldn't have the government's -- the
3 government -- have a lawyer appointed for them.

4 And so that's -- that's my -- my dog in this fight.

5 But then my second dog in this fight also is that this
6 trial, if it starts Monday, without me having a chance to talk
7 to Mr. Wells, I feel is -- I'll be ineffective and it won't
8 be -- it won't be competent. It also won't be the message that
9 Mr. Wells wants to put forward.

10 THE COURT: Well, so far the message he wants to put
11 forward is he doesn't belong here because there's no
12 jurisdiction. And I struggle with what you've said in terms of
13 not being able to prepare, but on the other side of that coin
14 you say you're unprepared. I mean, he -- at least at this
15 point, he has -- he has not given an inkling that he's going to
16 prepare any defense: I didn't do it, that wasn't me, not my
17 suitcase, those types of things. It's going to be: I refuse
18 to accept the jurisdiction of this court. I'm wrongfully here.

19 I think he is better represented by you, by an attorney,
20 in those circumstances, noting for the record the -- the
21 handicap -- the grave handicap that you are under in doing so.
22 I just don't see any -- and I may be wrong -- I don't see any
23 other way to do it. I don't see a Sixth Amendment violation
24 here given -- given the case law and given his approach here.
25 I mean, he's -- he's never really said I want to represent

1 myself. He's said I want to chant what I've chanted regularly
2 throughout this -- this matter, so --

3 MR. McWILLIAMS: Just -- I'm sorry to interrupt you.

4 THE COURT: No, go ahead. You can -- Interrupt away.

5 MR. McWILLIAMS: To be clear, in 8:01CR113, there was
6 a *Faretta* hearing conducted and Judge Bazis did appoint him to
7 represent himself. And I believe that the -- and in -- in each
8 of the motions to withdraw, including Mr. Black's motion to
9 withdraw, there is the inference that he does not want --

10 THE COURT: Right.

11 MR. McWILLIAMS: I would say that the natural
12 corollary to "I do not want appointed counsel" is that "I want
13 to represent myself."

14 And I -- I want to articulate this because I don't want
15 anyone caught unaware, but if -- and I'm -- I'm just -- I'm
16 just saying this out loud because I don't -- I don't want
17 anyone to be caught off guard is that if the Court denies the
18 motion to withdraw, my present intent is to file a notice of
19 interlocutory appeal under the collateral order doctrine. I
20 say that only because I know the Court is set to begin a jury
21 trial on Monday and I don't want anything to be a surprise.
22 That's all -- only reason I'm saying. That's not like a veiled
23 threat, it's just a statement of what I plan to do.

24 THE COURT: No, and again, I -- I realize you're in
25 a -- in a tough position. And even -- you know, for the

1 record, even if he asked for that before Judge Bazis in the
2 other case, you still have the language from *Edelmann* quoting
3 *Faretta* that you can terminate self- -- I can terminate
4 self-representation for someone who deliberately engages -- I
5 mean, that's -- that's this.

6 All right. I'm going to -- I -- does the government wish
7 to be heard on either of these?

8 MS. BUNJER: Yes, just briefly, Your Honor.

9 The government's position is we kind of have a double role
10 in this as well. Because we go to trial. Say Mr. McWilliams
11 is not allowed to withdraw. We are -- the government's
12 position that he should be allowed to withdraw. However, if
13 he's not allowed to withdraw, he goes in forward, whatever he
14 does in the trial is then going to be likely appealed by
15 another outside lawyer or even Mr. Wells himself. And even if
16 Mr. Wells continues down the sovereign citizen path, then
17 everything that Mr. McWilliams does, we then have to represent
18 Mr. McWilliams in a 2255.

19 So it's our position that that is adding --

20 THE COURT: Well, it won't be a 2255 that says, "He
21 didn't do what I told him to do." And that's too flip. But I
22 under- -- I understand your position and I understand what is
23 gonna flow from this.

24 MS. BUNJER: You just asked and that's all that we
25 wanted to put forth.

1 THE COURT: Yeah. All right.

2 And you need to do what you're gonna do, but I'm gonna --
3 I'm gonna overrule both motions in limine in this matter. I
4 understand you may be -- may be filing an interlocutory appeal
5 on it. Having said that, where are we procedurally? I did
6 get -- I did get an indication that there would be a
7 Superseding Indictment perhaps.

8 MS. BUNJER: Yes, Your Honor. And so we filed a
9 motion for a -- to start approximately at 11 a.m. on Monday to
10 let that process go and then we'd arraign Mr. Wells and then
11 we'd be prepared to start for trial.

12 THE COURT: All right. And I'll -- I'll allow that.
13 We'll see what -- we'll see what happens yet today and -- and
14 Monday from Mr. McWilliams.

15 And please know, Mr. McWilliams, and I'm gonna state this
16 for the record again, not only do I have sympathy for you, I --
17 and I think probably everybody in the courtroom would say the
18 same thing. I have a great deal of respect for the arguments
19 you're making here and -- and what you've done and the position
20 that -- that you've been in. You've been nothing but
21 professional. It's just a -- it's a -- it's a difficult
22 situation, not brought on in any way by you or the government.

23 MR. McWILLIAMS: I appreciate that sentiment. And
24 I've not -- I -- I appreciate everyone's sympathy. I don't
25 need it. It's just an important question I think that needs to

1 be resolved.

2 THE COURT: All right. All right. Anything else,
3 counsel?

4 MS. BUNJER: Not for now, Your Honor.

5 THE COURT: All right.

6 MR. McWILLIAMS: No, sir.

7 THE COURT: All right. We're in -- or adjourned.

8 (Recess at 10:07 a.m.)

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19 C E R T I F I C A T I O N

20 I, Susan M. DeVetter, RDR, CRR, certify that the foregoing
21 is a correct transcript from the record of proceedings in the
22 above-entitled matter.

23

24 /s/ Susan M. DeVetter
Official Court Reporter

November 24, 2025
Date

25