Docket No._____

IN THE
UNITED STATES SUPREME COURT

_____

MARTIN MURFF

Petitioner,
-vs-

UNITED STATES OF AMERICA,

Respondent.

_____

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

_____

APPENDIX B

United States v. Martin Murff and Winisford Watkins, May 8, 2023-Motion Hearing Transcript, Case No. 21-20354

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HON. JONATHAN J.C. GREY

v.

No. 21-20354

D-2, MARTIN MURFF,
D-26, WINISFORD WATKINS,

Defendants.
_____/

MOTION HEARING

BEFORE UNITED STATES DISTRICT JUDGE JONATHAN J.C. GREY
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan

Monday, May 8, 2023
1:28 p.m.

APPEARANCES:

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Plaintiff's Exhibits

Number	Received
1	34

Defendant's Exhibits

Number	Received
1	16
2	19

May 8, 2023

Detroit, Michigan

- - -

(Court, Counsel and Defendant present; 1:28 p.m.)

THE COURT CLERK: All rise. The United States District Court for the Eastern District of Michigan is now in session; the Honorable Jonathan J.C. Grey presiding. You may be seated.

The Court now calls Case Number 21-CR-20354, the United States of America versus Defendant Number 2, Martin Murff, and Defendant Number 26, Winisford Watkins. Will counsel please place their appearances for the record starting with the government.

MR. COOK: Good afternoon, Your Honor. Brant Cook and Danielle Asher appearing on behalf of the United States.

THE COURT: Good afternoon to the two of you.

MS. ASHFORD: Good afternoon, Your Honor. Maybe I should -- excuse me, Your Honor. I don't want to have my back to the Court. Good afternoon, Your Honor. Linda D. Ashford on behalf of Martin Murff.

THE COURT: Good afternoon, Miss Ashford.

MS. ASHFORD: Thank you.

MR. PLOTKIN: Good afternoon. Sanford Plotkin appearing with Winisford Watkins, Your Honor.

THE COURT: Good afternoon to you, Mr. Plotkin.

And I'll note for the record that the Court is present on the motion initially filed by Miss Ashford on behalf of Mr. Murff to inquire into the conditions of defendant's pretrial detention as to Sanilac County Jail's alleged ongoing deprivation of attorney-client privilege and Sixth Amendment right to counsel. And subsequently, co-counsel -- not co-counsel. You also joined this motion.

So, Miss Ashford, this is your motion, and so you will be heard at this time.

And I just want to state on the record prior to us going into argument that the Court does appreciate the Marshals Service for ensuring that both defendants were able to be present in court today.

Well, before we start, Miss Ashford, do you have any witnesses that you anticipate calling?

MS. ASHFORD: Yes, Your Honor. I intend to call Mr. Murff.

THE COURT: Okay.

MS. ASHFORD: And I also would like to make a preliminary motion.

THE COURT: Yes.

MS. ASHFORD: I would ask the Court to sequester any witnesses that the government intends to call in this hearing.

THE COURT: And your basis for a sequestration?

MS. ASHFORD: Well, Federal Rule of Evidence 615.

It's not my -- I have not brought any kind of action against Sanilac County Jail, so therefore an employee of Sanilac County, as best I understand, is not a party to this proceeding.

And I don't understand -- under the rules, unless the government says that they are -- that a witness is essential to the presentation of their claim, then it would not be appropriate under 615(c) for a Sanilac County employee to be here. Or whomever else.

THE COURT: Thank you, Miss Ashford.

Mr. Cook, any objection to sequestration of witnesses in this matter? Or Miss Asher?

MR. COOK: I don't really think it's necessary, but we don't object.

THE COURT: And do you have witnesses to call?

MR. COOK: We do, Judge. We have one witness from the Sanilac County Jail, Lieutenant Ryan McConnachie, who is seated -- at this moment is seated in the back of the courtroom.

THE COURT: Thank you.

Miss Osorio, would you approach?

(Conference.)

THE COURT: Mr. Carroll and Mr. Farmer, would you approach?

(Conference.)

THE COURT: We are checking on logistical means of sequestration, so we'll be at ease for a couple of minutes. And we'll wait on Mr. Farmer and Mr. Carroll to come back and alert the Court.

(Short pause.)

THE COURT: So the government's witness, if you would just step in the hallway, and Mr. Carroll will escort you to the room. And you'll be brought back at the time of testimony. Thank you.

Okay. Sequestration is underway. And, Miss Ashford, you may proceed.

MS. ASHFORD: Thank you, Your Honor.

THE COURT: And I'll just note for the record as you approach the lectern, the Court has received supplemental submissions of counsel as well as a joint statement from counsel clarifying the particular positions of the parties.

You may proceed.

MS. ASHFORD: Your Honor, I wish to call Martin Murff.

THE COURT: Thank you.

Mr. Murff, if you would approach the stand and be sworn. Thank you. I know that we have tight quarters in this courtroom, and I appreciate marshals' assistance and court security officers.

THE COURT CLERK: Mr. Murff, please raise your right hand.

(**Martin Murff**, sworn, 1:36 p.m.)

THE WITNESS: Yes.

THE COURT CLERK: Thank you. You may be seated.

MS. ASHFORD: Can you pull that down to you?

THE COURT: Thank you.

DIRECT EXAMINATION

BY MS. ASHFORD:

Q. Mr. Murff, would you state your full name for the record.

A. Martin Charles Murff.

Q. All right. And are you Defendant Number 2 in these -- in this indictment?

A. Yes.

Q. Okay. Now, just so that we can just cut straight to the chase here, how long have you been at the Sanilac County Jail?

A. 22 months.

Q. Okay. And do you know the date that you reached the Sanilac County Jail?

A. July the 5th, 2021.

Q. And have you been housed there continuously since that time?

A. Yes.

Q. All right. Are you familiar with the manner in which the jail authorities process incoming legal mail? I'm only asking you about legal mail. Are you familiar with that procedure?

A. Yes.

Q. All right. Would you briefly describe the procedure for the handling of legal mail when you initially reached Sanilac County Jail.
A. Okay. When I first got there, they used to --
Q. Keep your voice up, please.
A. I'm sorry. When I first got there, they passed out the legal mail, and they -- in front of us. They opened it up, check and see if anything -- any contraband. Was none there, give us the legal mail in the envelope, and it was done.
Q. All right. Now, did there come a time when that procedure changed somewhat?
A. Yeah. Maybe like eight to ten months, they stopped bringing it and sliding it under the door or taking us downstairs to make a copy of it and --
Q. All right. Before you go further, when you said there was -- there were times when the mail was slid underneath your cell door; is that correct?
A. Yes.
Q. Was it the original -- again, we're talking about legal -- incoming legal mail. Was it the original incoming legal mail that was slid underneath the door or -- answer that question. Was it the original?
A. It was the copy.
Q. It was a copy.
And what -- so you received a copy. Sometimes it was

slid underneath the door. What about the envelope itself?
A. Yes, yes.
Q. Yes? I'm not sure I understand your question -- answer.
A. Yes, sometimes the envelope would be slid under there but copied.
Q. Okay. So at times -- if I'm understanding your testimony, at times there was a copy of the envelope as well as a copy of the original incoming legal mail?
A. Yes.
Q. All right. Then you said that that was one way of -- it was handled. What was the alternate way that the mail, incoming legal mail, was processed?
A. The -- the other duty officer come and tell us we got legal mail, then take us down -- downstairs to the copier. So they then copy it, copy both the envelope and the legal mail, and give us the copy. And they'll take the original with them.
Q. All right. What, if any, concern did you have about the processes that you just described in terms of handling your mail?
A. One time I asked them like, "So where the copy? Where the original copies going?" They's like, "In your property." And I was like, "Ah, why? And you can get it to me?" It's like, "Man, it go in your property."

Then another time Officer Mantroup read my legal mail. He's like, "Man, it's from your lawyer. She's setting up a

meeting with you." I said, "So you read it?" He was like, "Yeah." I said, "You read it, huh?" "Yeah."

Q. All right. Now -- okay. Do you know the spelling or the -- how -- what is it, Sergeant Mantroup?

A. He's a deputy. He's -- I'm sorry.

Q. Deputy. All right. Do you know how to spell his name?

A. M-A-N-T-R-O-P (sic).

Q. All right. Now, Mr. Murff, I don't want to embarrass you, but I do want to make -- ask you a question for the record. Do you have a problem with stammering and stuttering?

A. I have a speech impediment.

Q. And has that been for the course of your life or what?

A. All my life.

Q. All right then. So to not, like -- it's not necessarily related to this particular court appearance, but it's just an ongoing problem you have had. Is that correct?

A. I can't talk. I'm sorry.

Q. Well, no. I just want to make it clear for the Court.

A. Yeah.

Q. Okay.

THE COURT: And I'll just state for the record that I have been able to understand you, Mr. Murff. And if there's any point that I can't understand you or the court reporter can't understand you, one of us will certainly let you know and ask you to repeat it.

THE WITNESS: Thank you.

BY MS. ASHFORD:

Q. All right. Now, Mr. Murff, I just want to get some clarification. You -- on your previous line of answering, you indicated that you at some point questioned why your mail was being -- incoming legal mail was being copied; is that correct?

A. Yes.

Q. And who did you talk to about it?

A. The first time, Sergeant Morden.

Q. Sergeant Morgan?

A. Yeah.

Q. Now, are you saying Morgan, M-O-R-G, as in "good," A-N?

A. Morden.

Q. Morden?

A. Yes.

Q. So M-O-R, perhaps --

A. D.

Q. -- D, as in "dog," E-N?

A. Yes.

Q. All right. So you talked to Sergeant Morden. Who else, if anyone, did you talk and discuss this problem with?

A. I talked to the Deputy Mantroup.

Q. Deputy Mantroup?

A. Yes. And I talked to the Sergeant Kensley.

Q. Sergeant Kensley.

A. Yeah.
Q. All right. Now, directing your attention to the month of February. And I've already -- I will provide one to the Court.
MS. ASHFORD: Your Honor, may I step away just one moment?
THE COURT: You may.
MS. ASHFORD: Your Honor, if I may, I've already provided a proposed Defense Exhibit 1 to the government and to the co-counsel. If I may approach, I would like to --
THE COURT: You may.
MS. ASHFORD: Excuse me. Your Honor, may I tender --
THE COURT: Yes.
MS. ASHFORD: Thank you. It's just proposed.
THE COURT: Thank you.
BY MS. ASHFORD:
Q. Mr. Murff, I'm directing your attention to the month of February 2023. And I ask you if you can describe -- or first of all, if you can describe what is on the first page of defense Proposed Exhibit 1. What does this depict?
A. It's a copy of --
Q. Now you going to get -- okay.
A. Sorry. It's the copy of the envelope that the legal mail come in.
Q. And the envelope that is a copy, that is depicted, does it

indicate that that was a mailing that I sent to you at Sanilac County Jail?

A. Yes.

Q. All right. And for the record -- I don't know -- the envelope didn't -- depicts that it was a priority --

MS. ASHFORD: Your Honor, I don't know why it's going in and out. Am I doing something wrong?

THE COURT: I think you may have touched it. It's a little bit sensitive.

MS. ASHFORD: Okay. I'm sorry. I apologize.

BY MS. ASHFORD:

Q. It's a priority mailing, two-day mailing. And according -- and I ask you: Does it show that the tracking number was 9405511206203904902167?

A. Yes.

Q. All right. And then -- and on the second page, does it indicate that it is a UP -- USPS tracking report from the United States Postal Service?

A. Yes.

Q. And just for simplicity's sake, are the last digits of the tracking number on this receipt 902167?

A. Yes.

MS. ASHFORD: All right. Your Honor, I would ask that it, you know, be admitted in terms of to document the mailing to Mr. Murff and also the tracking report showing that it was

received.

THE COURT: It's been received and it will be admitted at this time.

MS. ASHFORD: Thank you, Your Honor.

BY MS. ASHFORD:

Q. Now, Mr. Murff, referring again to page 2 of, now, Defense Exhibit -- can you --

A. I got it.

Q. Page 2 of Defense Exhibit 1, does it indicate that this particular parcel of mail was delivered to Sanilac County, Michigan, you know, to you -- or the address on February 16, 9 -- at 9:30 a.m.?

A. Yes.

Q. All right. Now, did you ultimately -- did you ultimately receive -- did you receive the mail that was contained in this parcel?

A. Yes, but I received it on February the 17th.

Q. At what time?

A. At 3:00 a.m. in the morning.

Q. 3:00 a.m. you received this mail?

A. Yes.

Q. All right. And who -- at 3:00 a.m. were you, presumably, in your cell at that point?

A. Yes. I was asleep.

Q. You were asleep. And how is it that it came to your

attention that you had mail?
A. Officer Mantroup opened the door, and I woke up after he opened the door.
Q. And then once you woke up, what did -- how did you actually get the mail? Did he have the legal mail in his hand at that time?
A. No. He had my regular mail.
Q. All right. So how did you get the mail that I sent you?
A. He told me that do I want my legal mail? I told him, "Yes." He's like, "Give me five minutes and I'll come back and take you to the copier."
Q. So he took you to the copier?
A. Yes. He came back.
Q. And did you receive the original mailing that I sent you or a copy of that mail?
A. He made a copy and gave me the copy.
Q. Okay. And what about the envelope itself?
A. He made a copy of the envelope too.
Q. All right then.
MS. ASHFORD: Your Honor, may I approach?
THE COURT: You may, and you have permission to continue to approach.
MS. ASHFORD: Oh, thank you, Your Honor.
Your Honor, may I pass this up?
THE COURT: Yes. Thank you.

BY MS. ASHFORD:

Q. Mr. Murff, I have provided you with a copy of defense Proposed Exhibit 2 and ask: Are you familiar with this document?

A. Yes.

Q. And what is it?

A. It's a printout of some money that was sent to me and some money that was voided from me.

Q. Okay. So it's a printout of money that was sent to you?

A. Yes.

Q. And the printout -- when you say sent to you, are you saying money that was sent to you at the Sanilac County Jail?

A. Yes. It was mailed to me, money order.

Q. A money order. And --

MR. COOK: Your Honor, I'm going to object to this line of questioning. I don't see its relevance to the legal mail issue.

MS. ASHFORD: Your Honor, it's relevant in terms of it goes to show -- and I had alluded to this at the last hearing -- the specter of retaliation that Mr. Murff is being subjected to at the Sanilac County Jail. And it would appear that it -- all of these things have started to happen to him since this motion has been pending in the court.

And, I mean, it would be very brief, Your Honor, but I think it -- I mean, is it proof beyond a reasonable doubt of

retaliation? No. But I believe it shows a hostile environment that he has been subjected to in the last couple months.

THE COURT: Thank you. I'm going to overrule the objection at this time. I am going to urge you to keep this brief and just ask you to streamline your questioning and move forward.

MS. ASHFORD: Okay, Your Honor.

BY MS. ASHFORD:

Q. Mr. Murff, directing your -- direct --

MS. ASHFORD: Okay. So it is admitted now; is that correct, Your Honor?

THE COURT: It is.

BY MS. ASHFORD:

Q. Directing your attention, Mr. Murff, this is the report of your funds that were on hand at the Sanilac County Jail as of March 11, 2023; is that correct?

A. Yes.

Q. All right. Did you receive a money order from a friend on March 11, 2023, in the amount of $150?

A. Yes.

Q. All right. And did a Deputy Jacobs bring you the money order that was made out to you?

A. Yes.

Q. All right. And when Deputy Jacobs brought you the money order, did you endorse your name on the back of the money

order?
A. I signed it, yes.
Q. All right. And did there -- a little bit later in the day, did you check your account at the jail? Did you check it?
A. I checked it because I was going to put some money on my phone, yes.
Q. All right. And when you checked your account, was the -- was your -- the funds on hand for you increased by $150?
A. Yes.
Q. All right. Now, did there come a time later on, in late -- on March 31, 2023, that you learned that the balance -- the money order had been voided by someone named Aaron Hillman?
A. Yes.
Q. And so, therefore, the $150 was then deducted from your account?
A. Yes.
Q. All right. Once you found that out, what, if anything, did you do?
A. I went to go put in for commissary, so I looked at my account. And I like, "Oh, man, I'm short."
Q. No, no.
A. Okay.
Q. In other words, once you found out that for some reason the $150 was no longer in your account, what did you do, if anything, about it?

A. I asked the officer, Miss Morgan, and told her, like, some money is missing out of my account.
Q. And what did -- did you go higher than Morgan?
A. Yes. I talked to a Sergeant Kensley and I talked to Sergeant Morden.
Q. All right. Did the money -- to this day, has the money been restored to your account?
A. No.
Q. Did you at any point ask for the money order to be returned to you?
A. I wrote a grievance, yes.
Q. And then what was the response in terms of where your -- the money order was?
A. They told me it was misplaced.
Q. It was misplaced?
A. And to -- asked me to have the sender to track it, to cancel the money order, if they could.
Q. If they could?
A. Yes.
Q. So you did not receive the money order back, and they said it was misplaced?
A. Yes.
Q. All right. Have you asked at any point for supplemental account statements of your funds at Sanilac County since March?
A. Yes.

Q. Have you received it?
A. No.
Q. What is the response from the Sanilac County in terms of getting additional account statements?
A. I asked the officer, and he told me he'd bring it to me, and never brought it back.

MS. ASHFORD: All right. No further questions.

THE COURT: Thank you.

Mr. Cook? Any cross-examination?

MR. COOK: Yes, Judge. Thank you.

CROSS-EXAMINATION

BY MR. COOK:

Q. Mr. Murff, good afternoon to you.
A. Good afternoon to you too.
Q. I'm going to start with this. You do get copies of your legal mail? Things that Miss Ashford sends to you, you do receive and you get it?
A. Yes.
Q. Okay. And Miss Ashford can come to visit you during attorney visitation hours and converse about the case with you if she were to choose to do so, correct?
A. Yes.
Q. With respect to the handling of the legal mail, you talked about having a conversation with some folks where they talked about policy about opening the mail in your presence, copying

it, copying envelopes and so forth. You had a conversation with people about that; is that correct?

A. Yes.

Q. And are you aware that there's a policy now that legal mail, after it has been copied, is then resealed by the inmate, initialed and -- with evidence tape, and is initialed and dated? Has that happened with legal mail that you've had currently?

A. Yes, my last one.

Q. Right. Opened in front of you, copied. You get to witness all that, correct?

A. Yes.

Q. And then you get to reload the envelope, and it's then taped and you get to initial and put a date on that tape, correct?

A. Yes.

Q. And it's your understanding that it's then put into your personal property effects, the original?

A. My understanding, yes. That's what I was told.

Q. Well, you can then go back to your cell, and wherever else, and you have your legal mail that you can then review; is that correct?

A. I have a copy, yes.

Q. Okay. You talked a little bit about this issue with the money order. You're aware that there is a grievance procedure

that inmates have; is that correct?
A. Yes.
Q. And you actually filed a formal grievance with respect to that money order.
A. Yes.
Q. Okay. But you did not file any formal grievances with respect to Deputy Mantroup, as you allege, reading your mail; is that correct?
A. No.
Q. And you did not file any formal grievances about what you allege was being woken up at 3:00 a.m. with respect to that mail. You didn't file a formal grievance there; is that correct?
A. Yes. Correct.
Q. Correct? Yes, that's correct?
MR. COOK: Could I have a moment, please, Judge?
THE COURT: Yes.
(Attorney conference.)
MR. COOK: I don't have any additional questions, Judge. Thank you.
THE COURT: Thank you.
Mr. Murff, you are excused. Thank you for your testimony.
MS. ASHFORD: Your Honor, just one quick --
THE COURT: You may very briefly redirect,

Miss Ashford.

So you're not yet excused, Mr. Murff.

REDIRECT EXAMINATION

BY MS. ASHFORD:

Q. Mr. Murff, why did you not file a grievance regarding the processing of the legal mail at Sanilac County Jail?

A. Because I -- I talked to you and was going to do the process that we doing now about it.

MS. ASHFORD: Okay.

THE COURT: Thank you.

You may step down. Please be careful stepping down from the witness stand.

(Witness excused, 2:02 p.m.)

THE COURT: Miss Ashford, do you have additional witnesses?

MS. ASHFORD: I'm sorry, Your Honor?

THE COURT: Do you have any additional witnesses?

MS. ASHFORD: No other witnesses, Your Honor. I would -- I have prepared something that I would ask the Court to take judicial notice of, but it's not -- I can present it now, but I don't have any other witnesses to call.

THE COURT: What is it?

MS. ASHFORD: Request for the Court to take notice of the adjudicative fact that modern commercial copiers and multifunction printers are vulnerable to data theft, as

[redacted]

And I'm not going to take judicial notice of this because the Court's view of judicial notice is facts that are so overwhelming that they're not in dispute. I don't know that any copier that is in use at Sanilac County, is going to retain and copy, that could be hacked. So I don't have evidence of that.

I do see this document. I don't know the types of copiers that are utilized at Sanilac County. I see this email -- pardon me, this news story about digital copier security. Part of this news story discusses one copier that had documents still remaining on the glass, the ease of taking a hard drive out of a copier, but I'm just going to find that -- at this time, I'm not taking judicial notice.

Even if I were to take judicial notice, I don't know that it would be dispositive of the issue that is before the Court, but I will accept this news exhibit -- or this document as an exhibit for the Court's consideration to the extent counsel would like -- would like for it to be offered.

But I'm not taking judicial notice, so I just want to clarify for the record. But I will accept this document as an exhibit as background information that you would like for the Court to have and to consider.

MS. ASHFORD: Your Honor, may I just make a brief --

THE COURT: Yes.

MS. ASHFORD: -- statement?

In addition to the article that is attached, I cite to the Federal Trade Commission's report regarding digital copier data security. And modern copiers are generally -- in, I think, the articles that I have noted, modern copiers are considered to be copiers that were manufactured since 2002. So, I mean, yes, I suppose it is theoretically possible that Sanilac County has a copier older than -- that precedes 2002, but there is -- not very likely.

And the upshot is that, of these articles -- and like I said, not only the Federal Trade Commission and others -- is that modern copiers scan. They have a hard drive. They're really computers. And the data -- they take images. The data is there and can be hacked, can be retrieved by a service person who is man- -- you know, servicing the machine and the like.

So that's all I wanted to --

THE COURT: Thank you.

MS. ASHFORD: Okay. Thank you, Your Honor.

THE COURT: Any further witnesses or evidence?

MS. ASHFORD: No, Your Honor.

THE COURT: Thank you.

Mr. Cook?

MR. COOK: Thank you, Judge. I guess I'd just ask, Mr. Plotkin, do you have any witnesses?

MR. PLOTKIN: I don't.

THE COURT: Thank you for doing that. And thank you for Mr. Plotkin.

Are you calling your witness at this time?

MR. COOK: Yeah, if we can, please, Judge.

THE COURT: Thank you. We will have the witness brought into the courtroom at this time.

Mr. Farmer, could you assist?

MR. COOK: Okay. Judge, our witness has arrived.

THE COURT: Thank you. You may call your witness, and he will approach and be sworn.

MR. COOK: Government calls Lieutenant Ryan McConnachie from the Sanilac County Sheriff's Office.

THE COURT CLERK: Please raise your right hand.

(**Ryan McConnachie**, sworn, 2:11 p.m.)

THE WITNESS: I do.

THE COURT: Thank you. You may be seated.

MR. COOK: Okay. May I proceed, Your Honor?

THE COURT: You may.

MR. COOK: Thank you.

DIRECT EXAMINATION

BY MR. COOK:

Q. Sir, could you please state your full name, spelling your last name for the court reporter.

A. Ryan McConnachie, M-c-C-O-N-N-A-C-H-I-E.

Q. Sir, we can see that you're in a uniform there. Can you

describe where you work and what your current rank is.
A. I'm the lieutenant jail administrator for Sanilac County Sheriff's Office.
Q. How long have you held that position, sir?
A. Just over a year in this position.
Q. And how long have you been in law enforcement overall?
A. Just about 20 years. It will be 20 years in about five days.
Q. Congratulations.
As the lieutenant over the Corrections Division, what are your duties?
A. I guess -- I oversee the jail, as far as the policy, budget, working with vendors, overseeing -- not necessarily overseeing the day-to-day operations but overseeing my assistant, who oversees the day-to-day operations.
Q. As part of your duties, do you take it upon yourself to attempt to keep contraband out of the jail?
A. Yes, I do.
Q. What are some of the general things that you do with respect to keeping contraband out of the jails?
A. Inmate searches, pat searches, strip searches, checking visitors, professional visitors that come in and out of the facility, searching mail, obviously searching legal mail in the presence of the inmate. Since then we've, you know, incorporated copying the mail.

Q. Okay. Well, let's talk about that a little bit. With respect to inspecting legal mail, did you encounter an issue recently with respect to contraband making it into the jail through legal mail?

A. Yeah. Well, it was about a year ago.

Q. Okay. Can you describe, kind of, what the issue is there?

A. We were getting Suboxone smuggled into the facility, and we had actually got it -- caught it in regular mail, so we started doing copying of regular mail. That didn't stop our issue. It was still getting into the facility. And through an informant, we found out that it was coming in through what we believed to be bogus legal mail.

Q. Okay. I want to talk about that a little bit further.

First, with respect to legal mail, is it, and has it been, the policy of the Sanilac County Sheriff's Office not to read the legal mail of inmates?

A. Correct.

Q. Before recent updates to policy, what was the process by which legal mail was handled?

A. The mail would be taken to the inmate. It would be opened in his presence, obviously searched, then -- for contraband, and then given to the inmate.

Q. Okay. With the advent of concerns about Suboxone being part of legal mailing, what changes did you make to policies?

A. We started copying mail. And then after it didn't stop the

issue, then we started copying legal mail and giving them the copy and then securing the original in their property.

Q. All right. Can you talk us through step by step how that works. So if a defense attorney -- a prisoner's attorney sends them some mail, arrives at your facility, what happens?

A. The officer would take the mail to the inmate, take the inmate down to -- I think we use mostly our medical room because it's upstairs and it's easier, accessible, but take them to a copier. They would open the mail in their presence, make the copy. They would hand them the copy, and the original would then get taken to the property.

Q. Okay.

A. That's --

Q. Please. Go on.

A. Since it was brought into question a few months ago, I think for the same case, we decided then to seal the inmate mail -- or have the inmate seal the mail and then date and initial it, just to try to protect the integrity.

THE COURT: And when you say "seal," is that a sticker? What -- can you describe the actual seal.

THE WITNESS: We started using evidence tape because that's what we had readily available. Sorry. And then we ordered -- I can't think of -- it's like an evidence tape but it's, like, secured. I can't remember what it says on it. But it leaves -- it has a signature line and a date line for them

to seal the opening, and then they can date and initial it.

THE COURT: So if that were ever open, would that seal be broken?

THE WITNESS: It would have to be broken, yes, or ripped in a different spot.

THE COURT: So it would be clear if it had been opened at a later date.

THE WITNESS: That was our intentions, yes.

THE COURT: Thank you.

Mr. Cook.

MR. COOK: Thank you, Your Honor.

BY MR. COOK:

Q. With respect to putting it into the inmate's property, is that property secured somewhere separate from, I guess, anyone being able to come along and pull things out of it?

A. Yes. It would be in our inmate property room, where all their personal belongings would go. It's in a secured room, and then once you enter that secured room, there's a cage with another secure door that you have to enter to get into the property section.

Q. And that's where the original legal mail ends up?

A. Yes.

Q. Does it remain a policy that at no time are deputies supposed to be reading the legal mail that a defendant receives?

A. Yes. That would be a violation of policy.
Q. Okay. Did you -- did these policies, with respect to the handling of legal mail, get put down into writing?
A. Yes.
Q. I'm going to approach with what's been marked previously as Government's Exhibits 1 and 2.

Can you describe for the Court what Government's Exhibit 1 is?
A. Government Exhibit 1 would be my directive that replaced the legal mail section of the policy in the operations manual.

MR. COOK: Move to admit Government Exhibit 1, Your Honor.

THE COURT: Any objection?

MS. ASHFORD: No, Your Honor.

THE COURT: Thank you. Admitted.

MR. COOK: Okay. And I believe I've already tendered that to your case manager.

THE COURT: I've received it.

MR. COOK: Thank you.

THE COURT: Thank you.

BY MR. COOK:
Q. And what is Government's Exhibit 2?
A. That would be the policy from the operations manual that covers all mail in general.
Q. Okay.

A. Including legal mail.
Q. And then if you look at page 3 of the Government Exhibit 2, there's an email there. Can you describe, kind of, what that is?
A. That was an email from my assistant jail administrator when we started copying the legal mail to try to stop the contraband from coming in.
Q. Okay. I want to turn back to Government Exhibit 1. That's dated when?
A. February 28th, 2023.
Q. And does that lay out the policy that you described here today, with the opening in front of the inmates, copying it, taping things with evidence tape, and then it going to their property?
A. Yes.
Q. Okay.

MR. COOK: One moment, please, Judge.

(Attorney conference.)

BY MR. COOK:
Q. Just to reiterate, it has always been the policy that jail staff doesn't read the mail, correct?
A. Legal mail, yes.
Q. I'm sorry. Yes, legal mail.

And then with the advent of this copying procedure, it has been the policy still, that it's not read?

A. Correct.
Q. And that the procedures that are laid out in these directives are followed?
A. Correct.
Q. Is it your understanding, as the administrator of the jail, that these procedures are followed?
A. I believe so, yes.
Q. Did you receive any grievances from Martin Murff or Winisford Watkins suggesting that legal mail was being handled incorrectly?
A. No, I did not.
Q. Had you received other grievances from Mr. Murff, for instance?
A. Yes, for separate issues.
MR. COOK: Okay. All right. Could I have one more moment, please, Judge?
THE COURT: You may.
(Attorney conference.)
BY MR. COOK:
Q. All right. Thank you, sir. I don't have further questions.
A. Thank you.
THE COURT: Miss Ashford or Mr. Plotkin?

CROSS-EXAMINATION

BY MS. ASHFORD:

Q. Good afternoon, Lieutenant. I'm Linda Ashford, and I represent Martin Murff. I just have a few questions.

In order for an attorney to visit with an inmate at the Sanilac County Jail, am I correct that -- or is it correct that the attorney has to provide a copy of his or her Bar card to the county jail?

A. Yes, that's correct.

Q. And would the attorney also have to provide a copy of -- the most current copy of their Bar card, Michigan State Bar card?

A. Correct.

Q. And are those documents required to be uploaded to the Sanilac County Jail's portal, the Bar card and the ID?

A. Yes.

Q. Okay. Now, are there -- does the Sanilac County Jail have a Michigan Bar directory?

A. No.

Q. No.

A. Not that I'm aware of.

Q. Not that you're aware.

Are you aware that the Michigan Bar directory can be accessed online, through the internet?

A. I am now.

Q. But you didn't know before?

A. Prior, no.

Q. So you didn't have any knowledge one way or the other, if a mail -- a mailing comes into the Sanilac County Jail that says "John Brown, Attorney at Law," that -- and particular -- you know, with a Michigan address, let's say, that you would have access to verify if that mailing actually came from a law firm or a lawyer?

A. Not the Bar website that you described specifically, but through Google we have done that, yes.

Q. You have done that through Google?

A. Yes.

Q. Okay. Now, you said -- and I'm not sure I understand -- I think you said "Suboxone," some kind of drug?

A. Yes.

Q. All right. And you said that happened about a year ago or so.

A. I want to say it was in early summer or late spring when we were brought to the attention of it.

Q. In 2022?

A. 2022, correct.

Q. All right. And you said it was a bogus legal mail. So when you said "bogus," what did you mean?

A. From what we believed, is that it was somebody using an attorney's credentials.

Q. So you believe it was a real attorney?

A. It was believed to be a real attorney, yes, but we don't

think it came from the attorney. We think it was somebody using their name and information.

Q. All right. Did you launch an investigation concerning this bogus piece of mail?

A. That -- when we confirmed that there was potentially issues, it was turned over to our drug unit and they investigated it, but I don't know the specifics of that investigation.

Q. They investigated the concern. And do you know if the attorney was charged criminally?

A. Not that I'm aware of.

Q. Was there a concern that the attorney was a participant, a knowing participant in the mailing of this contraband?

A. Not that I'm aware.

Q. Not that you're aware. So it wasn't your belief that the attorney was involved?

A. No.

Q. All right. Would it be fair to -- well, let me ask you this. Was there a request for investigation with respect to the attorney whose name was used in this bogus mail?

A. No.

Q. So nothing happened, that you know of? To the best of your knowledge, there was no criminal charges brought against the attorney, correct?

A. Not that I am aware of.

Q. And who else would be aware, the Sanilac County, but you? Would you not be the person that --

MR. COOK: Your Honor, I'm going to object to this line of questioning. I mean, I think what she's trying to do -- what counsel is trying to do is get into the rationale of the policy. The policy is what it is. And so the judgment is on whether that policy is constitutional. Its rationale, it is offered just for what it is. But the directive is what it is. Question is, is it constitutional.

THE COURT: Your objection has been registered.

Miss Ashford, any brief response?

MS. ASHFORD: Well, I mean, in terms of the rationale, I mean, that goes to the very heart of the constitutional question. And if the -- I mean, I think it's most germane to the question at hand. They have a policy, but just because you have a policy that makes no sense and has no rational basis, and it's not even followed to its most logical conclusion, we certainly have a right to challenge that policy.

And so that's -- I believe I should be given some latitude and --

THE COURT: Thank you.

I am going to overrule the objection. I'm just going to caution you, though, to limit this line of inquiry. I think that he's answering what he knows, but I don't want this to turn into a fishing expedition to ask any possible question

about anything that may have happened with an investigation.

I don't believe there's any evidence put before the Court that this is the individual that authored the policy, and so I also want to just clarify and state that as a limiting principle here. But he may answer questions that he's aware of.

MS. ASHFORD: All right, Your Honor.

Did you want to say something?

(Attorney conference.)

BY MS. ASHFORD:

Q. Okay. Now, back to Suboxone. To your knowledge, Lieutenant, are there any pretests or preliminary tests that can be done for the detection of such a chemical? Or narcotic. I don't know.

A. I believe there is a field test that can be done, yes.

Q. You believe that there is a field test. Okay.

Now, you spoke of a copier. And it's in a particular, what, office or copying --

A. It's our medical office where our nurse works, basically.

Q. Okay. And what kind of -- just briefly describe the copy machine that's there.

A. I don't know the details, to be honest.

Q. Okay.

A. It's just a copier/scanner/fax-type machine.

Q. And do you have any idea how old it is?

A. I do not.
Q. Do you believe it's 20 years old or older?
MR. COOK: Objection. That's been asked and answered, Your Honor.
THE COURT: I think you can ask to clarify the question of do you think it's 20-years-or-more old.
A. I don't believe it's that old, no.
BY MS. ASHFORD.
Q. You don't believe it's that old. All right then.
THE COURT: Let me ask you this, Officer McConnachie. Do you know if the copier has ever been hacked?
THE WITNESS: Not that I'm aware of.
THE COURT: Thank you.
Mr. Cook or Mr. Plotkin?
MR. PLOTKIN: Real brief.
THE COURT: You may.
MR. PLOTKIN: Thank you.

CROSS-EXAMINATION

BY MR. PLOTKIN:
Q. So there was an issue with Suboxone, that someone may have used, sounds like, a lawyer's legal mail.
A. Correct.
Q. Okay. Had you ever heard anything prior to that happening, before last summer?
A. We had got -- I'd get literature now and then from

different correctional --

Q. No, I mean -- I'm sorry, I don't mean to interrupt.

I mean specifically to your facility.

A. Not that I'm aware of, no.

Q. So it happened last summer. We know that, correct?

A. Correct.

Q. You're not aware of that happening from an attorney prior to that incident, at least your own knowledge?

A. No.

Q. Okay. And has that happened since?

A. Not that I'm aware.

MR. PLOTKIN: Okay. Thanks. Appreciate it.

THE COURT: Thank you.

Mr. Cook, any brief redirect?

MR. COOK: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. COOK:

Q. Lieutenant McConnachie, in trying to determine how to address this issue, did you discuss the issue with other jails in the area?

A. I had talked to the jail administrator from Livingston County, I believe, at one of our conferences and asked if they were having any issues.

Q. Okay.

A. And they were having some of the same issues, yes.

Q. And did you discuss how it might be addressed with them and with others?
A. Yes. And that's basically the same policy that they were doing.
Q. Okay. So you came to the same policy other places were doing? You guys aren't the only one out there doing this?
A. No.
Q. All right.
MR. COOK: That's all we've got, Your Honor. Thank you.
THE COURT: Thank you.
Just to clarify, did you author this policy?
THE WITNESS: Yes, the directive, I did.
THE COURT: Thank you.
You may step down.
THE WITNESS: Are these mine to keep?
THE COURT: Mr. Cook, any additional witnesses?
MR. COOK: No, Judge. Thank you.
THE COURT: Thank you.
(Witness excused, 2:32 p.m.)
THE COURT: At this time, Counsel, you may briefly offer further argument. And I just would reiterate that the Court does have the briefs that have been filed as well as the joint submission and has heard testimony today, but Miss Ashford and Mr. Plotkin, you may offer any additional

argument that you would like to do so.

(Attorney conference.)

MS. ASHFORD: Your Honor, I'm physically exhausted at this point, but I stand on my brief and reply brief. I want to reiterate that we are bringing a constitutional challenge to the deprivation of Mr. Murff's Sixth Amendment right to counsel and to the right to have protected communications with his lawyer, particularly in terms of matters that are critical to his defense.

The policy is -- puts a tremendous chill on my concerns in writing Mr. Murff, because I am always concerned about his safety. And I don't want to be in a situation where I'm making his situation worse, because I'm not there to protect -- I can't protect him anyway.

So, in other words -- so there are many things that I cannot write about this particular motion nor can I really get into the essence of the underlying charges and do any kind of critical writing and assessment to help my client reach whatever synthesis that needs to be reached.

In terms of Mr. Cook's question as to whether I can visit with Mr. Murff, yes. I was there yesterday.

THE COURT: Yes.

MS. ASHFORD: But that's not the point.

THE COURT: I agree that that's not the point. But your view is that any opening of the mail, and copying it,

is -- does not comport with the Constitution.

MS. ASHFORD: Not the opening, Your Honor --

THE COURT: But the copying --

MS. ASHFORD: -- so long as it's -- excuse me. So long as it is in his presence, we have no challenge to that. It's the retention of the copy. How are we to know where the mail goes after that? I can't -- you know --

THE COURT: And just to clarify -- I just want to make sure that I understand. Your view is that even with this evidence sticker, that it still would have to be broken, that for you, you feel like that's not enough of a safeguard?

MS. ASHFORD: No, Your Honor. Because how would we ever know? I can't tell you how many times, for example, that my clients, when they get transferred, they write me back and they ask me, "I" -- you know, "They didn't give me my documents when I got transferred to this place," or whatever.

There's no way for us to know, in any effective way, if someone opened his mail. Or they might say -- just like the missing endorsed money order that has disappeared after he signed it, and they don't know. It's misplaced.

Nor should Mr. Murff be in a position -- because he is a vulnerable person, being an inmate in a county jail -- to be in a position where he has to police and try to enforce his rights in terms of "Where is my mail and what are you doing with it?"

I also, in terms of the Code of Federal Regulations -- and I still take the position that Mr. Murff is a federal detainee and is entitled to the rights -- and I don't know the number right offhand, but that that particular Code of Federal Regulations specifically says that it should not be copied, the incoming legal mail should not be copied. And we do not yield in any way that that regulation isn't applicable to him.

THE COURT: Thank you.

MS. ASHFORD: All right. Thank you, Your Honor.

THE COURT: Thank you.

Mr. Plotkin?

MR. PLOTKIN: Two minutes ago, I told Miss Ashford that I was just standing on. I really still am, but just a couple of things.

THE COURT: Yes.

MR. PLOTKIN: You know, one thing, just in all fairness to Mr. Watkins -- and he whispered to me while Miss Ashford was speaking -- that, you know, they're in a little bit of a -- because they're locked in a cell, they don't know what's happening, ultimately, number one.

Now, call me cynical to suggest that there might be any hanky-panky with legal mail at Sanilac or, frankly, anywhere else. I mean, the gentleman just testified under oath that the policy is that it's not to be read. I get that. A lot of things aren't supposed to happen, but they do. We hope

that that -- his policy stays in effect, but you've got clients facing, let's be real, maybe the rest of their life in custody. And we're discussing that with them, both personally and professionally, in these communications.

You know, when I write to Mr. Watkins, it may have more than simply professional. Nothing inappropriate, but, you know, these are communications -- our clients are facing 30 to life, possibly, on a RICO charge. They're not young men. And we've got to keep a relationship of trust with our clients.

And these are the types of things that to -- I'm going to say outsiders, I mean outside of the defense bar, just simply -- not for any callus reason, but just that we're the ones in the trenches. I've spent a lot of time invested in gaining Mr. Watkins' trust. And these are the types of things that start to erode that relationship of trust, and through no fault of ours.

So I'm just simply underscoring that it's more than just, you know -- of course there's a Code of Federal Regulations and there is, frankly, a Sixth Amendment and there are these laws and statutes and interpretations that govern this, but then there's, frankly, just the practical relationship that can be harmed by a violation of that relationship of trust and that privilege relationship.

So Mr. Watkins whispers in my ear just now that "Look, I understand the policy. I understand what the man just

testified to under oath, but Murff and I are at a disadvantage because we're led away and we haven't seen it since."

And as Mr. Watkins pointed out a few minutes ago, what about all of our privileged communications prior to this change, you know, not placed, sealed in an envelope? There's quite a bit of pre-existing communication. I'm going to make a big guess there's decades' worth of those communications to people in custody at the Sanilac County Jail, and Livingston for that matter.

And I'll say this. When you get to a rational basis for a policy, my understanding is one time, one time something happened with legal mail. Nothing before, nothing since.

And I'll just leave with this analogy, if I may. Again, which kind of affects our relationships and our interactions with our clients, whether it seems that significant to the Court, to the prosecutor, to the marshal himself, which is shackling of our clients.

Now, I like the fact that I've lived to my mid-sixties because I get to say things like I've been doing this for X amount of time. And I have, in this building. I started as a Federal Defender in 1986.

It was some years ago -- our clients were never shackled in a courtroom. You know, some Bobby Seale-esque -- it was never quite like that. One time, one time a disruptive individual in duty court shoved, pushed, assaulted their

counsel at the podium. And it seems that from that day on, literally, everyone is now shackled in this courthouse. Hadn't happened before, hadn't happened since. But here we are. Just takes one time.

Now, I analogize that to what's going on with the privileged communication issue. And, again, if it didn't erode my relationship with trust, heck, I wouldn't have even joined Miss Ashford's motion. But it does. It's serious.

So I guess I'm just bringing that to mention to the Court's attention. And I leave on that analogy to the shackling. Thank you.

THE COURT: Thank you, Mr. Plotkin.

Mr. Cook?

MR. COOK: Thank you, Judge. Miss Asher is going to address the Court, if that's okay.

THE COURT: Certainly.

Miss Asher.

MS. ASHER: Thank you, Your Honor. Just to respond to a few things that came up during the hearing and then during argument.

I mean, the main issue before the Court is whether this policy is constitutional. How do we know if it's constitutional? If it's uniformly and evenly applied.

Mr. Murff testified that the mail was opened in his presence and then it was made -- with a copy in front of him,

and then he was told that it was taken to his property. Since this new directive, which was Exhibit Number 1, he explained that the mail was opened, again, in front of him, copied, and then now he has a tape that he affixes to it that he signs and dates.

This goes above and beyond what the Constitution requires. There's no allegation that this policy is not being evenly applied. There's been no evidence about Sanilac County reading the mail. Miss Ashford admitted she is not alleging that they are reading the mail. She said that she just doesn't know where the mail goes or what's happening with it.

The mail -- or the jail has taken significant steps in recent months to further ensure that there's no reading of the mail, of legal mail, once it's placed into the property of that particular inmate. And we know because we can check it. You can either see if that seal has been damaged. You can see if it's been opened in another portion. There's just no evidence brought today that this rises anywhere near the level of a constitutional violation.

We discussed this briefly in the joint statement. We do not believe the Code of Federal Regulation applies, but even if it did, that's not rising to the level of a constitutional claim. There just really isn't jurisdiction for this Court to handle this issue.

There's no allegation that this policy is not being

followed currently. And there are other remedies available if Mr. Murff feels, in the past, or Mr. Watkins feels, in the past, something had happened potentially to his legal mail. There are 1983 or those actions that they can bring.

So here, we believe that the Constitution is more than satisfied. This is a uniform policy that's providing significant assurance that this mail's not being read by anyone at the facility.

THE COURT: Thank you, Miss Asher.

This is a unique legal issue for the Court to address. And I do find that I do have jurisdiction to address the issue and that it is not a requirement that a separate 1983 action be filed, given the procedural posture in this matter.

And I'm going to separate this out because I do think it would be different were there a retaliation claim being raised, that that might necessitate a separate civil action. But given that we do have pretrial detention here, I do find that I can address this.

What the Court has to do is to balance the First Amendment rights that each person has, even if they are in custody, with any legitimate penological interests that are advanced as well to promote the security of a penal institution and certainly, in this case, the county jail that is housing federal pretrial inmates in part.

So I'm guided by *Sallier v. Brooks*. That's one case

from the Sixth Circuit 2003, 343 F.3d 868, 873. In that case the Court said, "When incoming mail is legal mail, there is a heightened concern with allowing prison officials unfettered discretion to open and read an inmate's mail because prison security needs do not automatically trump a prisoner's First Amendment right to receive mail."

I'm also guided by the Supreme Court's statement in *Wolff*, *Wolff v. McDonnell*. 418 US 539, 576 is the pinpoint cite from 1974, where the Court held that officers may open legal mail in the presence of an inmate and inspect it for contraband. So I'm looking at both of these.

And there's some contours of the law that have not been fully fleshed out. The Sixth Circuit has not ruled on the explicit policy that is before the Court today, but there have been similar policies ruled on by other district courts.

One of those courts is the Western District of Kentucky, and I'll just highlight that case. It's *House v. Henderson County Detention Center*. There's a Westlaw citation from 2022, 4279724. And this is, again, the Western District of Kentucky from September 15th, 2022. And the same policy was also upheld in that district court in a case of *Chapman v. Henderson County Detention Center*, another Westlaw cite from 2022, 109211. That decision was January 11th of 2022.

And basically in those cases the prison facility at issue had a policy where officers would open the mail in an

inmate's presence, scan the mail into a laptop for a prisoner to review. The original would be placed in the inmate's property. And the district court in those cases found that that is reasonable, that it did not run afoul of the First Amendment and it satisfied prison's legitimate penological interest.

I do want to make a note here that there's not an ongoing allegation that prison mail is being read by prison officials. If there were, we might be in different territory. But what we have is whether or not this policy, as written, is reasonable and whether or not it comports with constitutional concerns, not just the First Amendment but also Sixth Amendment, as outlined by Miss Ashford and Mr. Plotkin.

The Court is aware of cases of liquid Suboxone being utilized to soak legal mail and nonlegal mail. And the Court finds that that is a legitimate penological interest, that jails want to prevent mail coming in that may be soaked in narcotics. And I'll just state for the record that upon information and belief, Suboxone, S-U-B-O-X-O-N-E, is a Schedule II narcotic. It is an opioid. It is a controlled substance that is regulated by the federal government.

And the allegation -- not the allegation, but the alleged basis for the policy at issue here is that on one occasion legal mail came into the prison in Sanilac County and it actually contained Suboxone. The allegation was that an

attorney's credentials were unlawfully utilized to send that legal mail, not that an attorney actually sent that legal mail themselves.

But the Court is aware that there have been instances around the country, not just in Sanilac County. And so I have to consider that.

And in considering that, I do find that this is a reasonable policy, particularly where there are no allegations of hacking of copiers here. I credit Miss Ashford's careful attention to detail and wanting to know what the policies are. I don't have any information that would render this policy unreasonable at this time based upon the allegations that are before the Court.

The Court is certainly concerned about the relationship that -- and the special relationship that defense attorneys have with their clients. The Court is aware that there are difficulties when a client is behind bars and defense attorney has to do different things than they might otherwise do if the person were out on bond.

But I do find that given that this is a neutrally applied policy that's subject to everybody, that there's a written process, that there's evidence tape, tape that would have to be manipulated, that would show signs of manipulation if it was opened, that I do find that this is a reasonable policy and that it appears very similar to the Western District

of Kentucky's policy.

I do wish there were more guidance. We don't have any Sixth Circuit decisions, again, but given that this is obviously a legitimate penological interest, I find that the policy is reasonable.

And so that is the finding of the Court, that we have held a hearing and we have conducted a robust inquiry as to whether or not the First and Sixth Amendment rights have been violated by this policy that is in place. And I find that it -- at this juncture, it has not, because there's so many procedures that have been put in place in the jail.

The mail is opened in the presence of the inmate or defendant, is copied and placed in a sealed file -- pardon me, in a sealed document that is sealed in the presence of the inmate or the defendant. And I do find that that is a reasonable policy in part because there have been numerous mailings across the country, including of legal mail, specifically of the type of drug that was mentioned in this case as precipitating the policy.

So that is the order of the Court. I thank all counsel for their careful attention to detail in the briefs and their capable arguments today. That will be the order of the Court, and the record will reflect that.

Counsel, is there anything further for the Court's consideration?

MR. COOK: Not from the government, Your Honor. Thank you.

THE COURT: Miss Ashford or Mr. Plotkin?

MS. ASHFORD: No, Your Honor. Thank you.

MR. PLOTKIN: No, Your Honor. Thank you.

THE COURT: Thank you. So this matter is adjourned. The court will be in recess for approximately seven minutes until the next case.

(Proceedings concluded, 2:53 p.m.)

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CERTIFICATION OF REPORTER

I, Leann S. Lizza, do hereby certify that the above-entitled matter was taken before me at the time and place hereinbefore set forth; that the proceedings were duly recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to either party, nor interested in the event of this cause.

S/Leann S. Lizza 5-25-2023

Leann S. Lizza, CSR-3746, RPR, CRR, RMR, RDR Date