

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

1			
2			
3			
4	UNITED STATES OF AMERICA,	)	
5		)	
6	Plaintiff,	)	
7		)	
8	v.	)	No. 3:05-CR-00185
9		)	
10	TIMOTHY RYAN RICHARDS,	)	
11		)	
12	Defendant.	)	
13		)	

---

-----

BEFORE THE HONORABLE ALETA A. TRAUGER  
TRANSCRIPT OF PROCEEDINGS  
September 7, 2006

-----

22 PREPARED BY: DOROTHY STILES, RMR, CRR  
 23 Official Court Reporter  
 24 801 Broadway - Room A-837  
 25 Nashville, Tennessee 37203  
 615.330.1764

1 APPEARANCES:

2 For the Plaintiff:

3 S. CARRAN DAUGHTREY  
4 Assistant United States Attorney  
5 110 Ninth Avenue South  
6 Suite A-961  
7 Nashville, Tennessee 37203

8 KAYLA BAKSHI  
9 United States Department of Justice  
10 1400 New York Avenue  
11 Suite 6000  
12 Washington, D.C. 20530

13 For the Defendant:

14 PETER J. STRIANSE  
15 Tune, Entrekin & White  
16 315 Deaderick Street  
17 Suite 1700  
18 Nashville, Tennessee 37238

19 KIMBERLY S. HODDE  
20 Hodde & Associates  
21 40 Music Square East  
22 Nashville, Tennessee 37203  
23  
24  
25

1           The above-styled cause came on to be heard on  
2           September 7, 2006, at 10:00 a.m., before the Honorable  
3           Aleta A. Trauger, when the following proceedings were had,  
4           to-wit:

5           COURTROOM DEPUTY: Be seated, please.

6           THE COURT: Good morning.

7           We're here on United States of America vs. Timothy Ryan  
8           Richards, Criminal Case No. 3:05-CR-00185.

9           We have Carrie Daughtrey and Kayla Bakshi for the  
10          Government, and Peter Strianse and Kimberly Hodde for  
11          Mr. Richards. Mr. Richards is in the courtroom.

12          MR. STRIANSE: Good morning, Your Honor.

13          THE COURT: Good morning, everybody.

14          We're here on several defense motions. Have any of  
15          these been resolved?

16          MS. HODDE: No, Your Honor.

17          THE COURT: All right. The intervention of a new  
18          law is sort of mucking up the process a bit. Certainly it is  
19          true that I made an order in April about producing the hard  
20          drives to the defense, which the Government apparently  
21          complied with. And then intervening was a new law passed, I  
22          guess effective -- was it effective on July 27th?

23          MS. BAKSHI: Yes, Your Honor, it was.

24          THE COURT: Of this year. So we are having to  
25          comply with that.

1 I'm not in a position to hold prior to trial that this  
2 Act is unconstitutional in any way. It could be that if the  
3 defense is sufficiently hampered and demonstrates that fact  
4 in its defense at trial that they will have an appellate  
5 issue if Mr. Richards is convicted. But the Court is not  
6 prepared to, at this early stage of the game, hold that this  
7 Act is in any way unconstitutional or hampers the defense.

8 So I would like to discuss realistically how the  
9 mechanics of this can go forward. I guess, first of all, I  
10 would like to talk about the identifying the images motions.  
11 Motion No. 105.

12 The defense alleges that the Government hasn't complied  
13 with the identification of the images. And I guess the  
14 biggest problem I see at this point is the fact that the  
15 Government has not produced its forensic report. And there's  
16 a companion motion requesting some extension of the defense  
17 expert disclosure because the Government hasn't disclosed.

18 There's so much happening at one time here. Apparently,  
19 there's an impending second superseding indictment looming.  
20 The trial is set for October 10th. The Court would certainly  
21 like to go forward on October 10th. The Court presumes that  
22 the Government is prepared to go forward on October 10th.

23 MS. BAKSHI: Yes, Your Honor.

24 THE COURT: I'm seeing nodding heads.

25 I know the defendant very much wants to go forward on

1           October 10th. Is that still the defense's position?

2                     MS. HODDE: That's correct.

3                     THE COURT: So we just need to manage this as we  
4 best can before October 10th.

5                     Let me start with this question. The defense asserts  
6 that they do not really anticipate any *Daubert* challenges.  
7 So it would help me in figuring out our timing here if the  
8 Government likewise anticipated there would be no *Daubert*.

9                     MS. DAUGHTREY: No. I think the parties  
10 essentially agree that the experts are the same kind of  
11 experts, with the same kind of background. So there's no  
12 *Daubert* issues expected at this time, as far as I know.

13                    MS. HODDE: I agree with the Government.

14                    THE COURT: Terrific. That gives us a little bit  
15 of wiggle room here.

16                    And it also seems to me reasonable, given everything,  
17 that the defense be given some extension of their expert  
18 witness disclosure deadline, given the new evidence that you  
19 have given them.

20                    So can the Government agree that they should get some  
21 kind of an extension on their expert disclosure deadline?

22                    MS. DAUGHTREY: Yes. I think that's an appropriate  
23 thing to do.

24                    We are at this point expecting a superseding indictment  
25 to be coming out next Wednesday. And I think that that will

1           also facilitate their ability to deal with the content of  
2           that.  Although all of that information from that superseding  
3           indictment has been provided in discovery, except for the  
4           things that are pending here.  Under those circumstances as  
5           well, I think it would be appropriate for them to have an  
6           extension.

7           The other question that I have in addition to providing  
8           the extension to them is that we would be providing an expert  
9           disclosure that involved information coming from the  
10          superseding indictment.

11          It's a little dicey.  We will be providing that  
12          information in advance of the superseding indictment coming  
13          out, not knowing exactly what the superseding indictment is  
14          going to have or what the grand jury is going to approve.  So  
15          although the Government doesn't have any objection to a  
16          continuance for their expert, we would ask also that perhaps  
17          the Court would allow us to provide our expert on Wednesday  
18          in conjunction with that superseding indictment.

19                 THE COURT:  What about doing yours in two  
20          installments?

21                 MS. DAUGHTREY:  That would be fine.

22                 THE COURT:  You could do yours on Friday on the --

23                 MS. DAUGHTREY:  Current superseding indictment.

24                 THE COURT:  Current superseding, right.

25                 MS. DAUGHTREY:  That would be fine.

1 THE COURT: And you could do the supplemental  
2 disclosure related to the second superseding indictment on  
3 Wednesday.

4 MS. DAUGHTREY: Yes.

5 THE COURT: The same day that the --

6 MS. DAUGHTREY: Yes. We would have to wait until  
7 the grand jury issues a true bill or a no true bill on that  
8 before we would submit that, but it would be late afternoon  
9 or early evening on Wednesday that we would anticipate that.

10 THE COURT: All right. Let's take it a step at a  
11 time.

12 Does that sound reasonable to you all?

13 MR. STRIANSE: Yes, Your Honor.

14 MS. HODDE: Yes, Your Honor.

15 THE COURT: All right. So then 9/13, after the  
16 grand jury's action, there will be a supplemental expert  
17 disclosure. Then it becomes what's reasonable in terms of an  
18 extension for the defendant.

19 I guess given that there may be other motions in limine  
20 that do not relate to *Daubert* --

21 MS. HODDE: We do anticipate a number of those  
22 types of motions.

23 THE COURT: Then I will continue to hold the  
24 afternoon of the 29th. But it seems to me that it would be  
25 fair for the Government to have the defense expert

1 disclosures sufficiently in advance of the 29th that if they  
2 have some motions in limine related to your expert report,  
3 they have an opportunity to file those motions.

4 MS. DAUGHTREY: That is correct. That's what the  
5 Government was going to ask.

6 THE COURT: Well, let's first figure out the timing  
7 of the filing of motions in limine. Because I don't believe  
8 that we have set that timing, have we?

9 MS. DAUGHTREY: Your Honor, I noticed that the  
10 motion in limine actually had two different dates. In Docket  
11 Entry No. 67, pursuant to your usual instructions about jury  
12 instructions and motions in limine, you had set the motions  
13 in limine due to the 3rd of October and the responses due on  
14 the 6th. However, in Docket No. 101 you had specifically  
15 indicated that the motions in limine were due on the 15th,  
16 responses due on the 22nd, with a hearing on the 29th.

17 THE COURT: Okay. Well, we need to jiggle those a  
18 little bit, don't we?

19 MS. DAUGHTREY: Yes. The Government agrees with  
20 that.

21 THE COURT: All right. Yes. That was part of the  
22 order on July 24th. I had forgotten that was included in  
23 there.

24 Well, I'm willing to have the responses to motions in  
25 limine by the end of the day on the 25th, but I don't see how

1 I could have them much later and get myself prepared for a  
2 motion hearing on the 29th. So let's work backwards from  
3 there.

4 If responses are due the 25th, then it seems that the  
5 motions -- I don't know. I guess we could have them due on  
6 the 20th. That's really pressing you all, but --

7 What do you think? Anybody?

8 MS. HODDE: Your Honor, if we're getting a  
9 superseding indictment on the 13th, that's been forecasted,  
10 and we're going to be getting, I think, the bulk of the  
11 Government's expert report then on the 13th --

12 Is that fair?

13 THE COURT: The bulk, I would say, on the 8th;  
14 wouldn't you? Or has the superseding indictment got a whole  
15 lot more?

16 MS. DAUGHTREY: Well, I've discussed this with the  
17 defense at length, about what -- we've had a meeting about  
18 what the superseding indictment will contain.

19 There are essentially four web sites that are in the  
20 superseding indictment. There is only one web site that's in  
21 the current superseding indictment. So there will be three  
22 additional web sites that are added.

23 It's the same kind of charges, the same kind of behavior  
24 that the Government is alleging. It's just that it's  
25 additional web sites to that one. So in some senses, yes,

1           there will be the one. It will be more than what comes out  
2           on the 8th.

3                   MS. HODDE: May I ask, how many new counts are you  
4           projecting?

5                   MS. DAUGHTREY: At this time we're projecting --  
6           it's up on the grand jury, but we're projecting 32 counts.

7                   THE COURT: 32 counts total?

8                   MS. DAUGHTREY: Total. Yes. Yes.

9                   THE COURT: So you're not getting that expert  
10          report until the 13th. The 20th would give you a week.

11                   MS. HODDE: Your Honor, we'll make that work.

12                   THE COURT: All right. So we'll have motions in  
13          limine September 20th.

14                   And now the defense expert report. Should we do the  
15          defense expert report in two installments or just one?  
16          Anybody have strong feelings about that?

17                   MS. HODDE: Your Honor, I would think just one.

18                   THE COURT: Okay.

19                   MS. HODDE: I mean at this point I think the first  
20          superseding indictment is about one image, basically. And  
21          then the second superseding indictment, I believe, is what's  
22          going to contain kind of the bulk of the information.

23                   THE COURT: Okay.

24                   MS. DAUGHTREY: Just as a correction, the first  
25          superseding indictment also includes distribution. So it

1 really involves more than just one image. And the subsequent  
2 web sites will involve the same kind of distribution and  
3 image charges that the current superseding indictment has.

4 THE COURT: I'm sure your expert is already working  
5 on distribution.

6 MS. HODDE: Well, at this point what we don't have  
7 is we don't have any clarification from the Government about  
8 which of the 20,000 images that they've produced relate to  
9 which counts in the indictment. So, I mean, I think the  
10 Government's theory on distribution is he was distributing a  
11 lot of child pornography from this particular web site. You  
12 know, therefore, you're going to see a lot of images coming  
13 from that web site.

14 We're just not sure how to differentiate what goes with  
15 what count of the indictment and how to figure out what's  
16 relevant.

17 THE COURT: Go ahead.

18 MS. BAKSHI: May I respond?

19 One of the things that we provided in our disclosure of  
20 the identification of images was the file name, as well as a  
21 computer file path. And I would estimate that in 85 to 90  
22 percent of the images identified, the file path contains the  
23 name of the web site. So if you simply look at the file path  
24 or sort or search --

25 We have identified the names of the web sites for

1 counsel at last week's meeting among counsel. So it should  
2 be there with a minimal amount of just deductive reasoning.  
3 They know the name of the web site. It's in the file path.  
4 They can determine that just looking at that.

5 THE COURT: How many counts are in the present  
6 indictment?

7 MS. BAKSHI: There are three counts.

8 THE COURT: Three counts.

9 MS. BAKSHI: Related to one web site.

10 THE COURT: And was your expert present for this  
11 meeting last week?

12 MS. HODDE: No, Your Honor.

13 THE COURT: Why not?

14 MS. HODDE: Your Honor, I mean he's working on his  
15 forensic analysis. But, honestly, we didn't know that the  
16 Government would be attempting to preview for us exactly how  
17 our expert should be doing his job.

18 Now, our expert has had the opportunity to review the  
19 Government's response, which the Government claims is  
20 basically a recap of that meeting. And he's filed a  
21 supporting affidavit, basically saying the Government's  
22 suggestions about automation and things like that are not  
23 really appropriate forensic tools and that that's not how I  
24 do my work, so that doesn't really help.

25 THE COURT: In terms of the time frame, let's go

1 back to when the defense --

2 You tell me when you think you can have your forensic  
3 report ready.

4 MS. HODDE: Your Honor, would September the 22nd  
5 work? That would be nine days after the Government's  
6 disclosure.

7 THE COURT: Well, that's two days after motions in  
8 limine. That doesn't give them an opportunity to challenge  
9 anything in your expert witness report.

10 Do you anticipate doing that?

11 MS. DAUGHTREY: We don't have any idea. If we  
12 could submit any motions in limine regarding that expert  
13 report subsequent to that date, then we don't have any  
14 objection to 9/22.

15 We just don't know. There may be no motions at all  
16 related to that.

17 MS. HODDE: Your Honor, I would be agreeable to  
18 that. I can't imagine that they would file motions in limine  
19 based on that anyway. In any event, we would not oppose  
20 that.

21 THE COURT: All right. So the defense expert  
22 report would be the 22nd. And then any motions in limine by  
23 the Government related to that could be filed after the 22nd,  
24 and as soon as possible. What else can we say? All right.

25 So Motion 106 has been granted enlarging the expert

1 disclosure deadline. In terms of the exact images, the  
2 Government asserts that it is going to be using in some way  
3 everything they've given you, even though it's 20,000 images  
4 and even though it's flowers and other things.

5 They have asserted that things of that nature are  
6 relevant because they help establish what was posted where  
7 and the duplication of what was sorted, what was published,  
8 multiple versions. And they claim that has evidentiary  
9 value.

10 Is that correct?

11 MS. BAKSHI: Yes, Your Honor. Largely. The only  
12 thing I want to just clarify is that the defense has  
13 complained that there's a fair number of system files and  
14 other standard files. And as I've explained to them a few  
15 times, there's just a manual process taking place by myself  
16 and one investigator over a four-week period. And we started  
17 with 10 million files and then tried to cull through it.

18 As I explained to them, it's entirely possible that  
19 there's some handful of files that are not flowers or system  
20 files that were not intended to be included and were  
21 included. If they had any questions, I would be happy to  
22 answer that. If I ran across anything myself, I would let  
23 them know. But that's a tiny fraction of what we're talking  
24 about in terms of the image files.

25 Other than that, we do expect to introduce all of this

1 stuff. And there are images that are both certainly the  
2 child pornographic images, but also other kind of image  
3 files; including some of the adult pornography. And what I  
4 describe as .gif files in the motion response do have  
5 evidentiary value, as Your Honor suggested.

6 THE COURT: And I presume that your expert witness  
7 report will make all of this even clearer.

8 MS. BAKSHI: Yes, Your Honor.

9 THE COURT: So I don't know what more I can --

10 I mean they assert that basically what they have given  
11 you is going to be used in some way. And they certainly have  
12 sat down with you. I would have thought it would be a whole  
13 lot more valuable to sit down with you and your expert, but  
14 the Court has no way to sort through this.

15 If they assert they're going to use all 20,000, then you  
16 all just have to do the best you can. I don't know what else  
17 I can do.

18 MS. HODDE: Your Honor, I'm a little confused by  
19 the Government's assertion today. It was my understanding at  
20 the meeting that Mr. Strianse and I had with the Government  
21 that the Government might be using like 3,000 of those images  
22 and they just hadn't basically compiled the list of 3,000  
23 images or they didn't want to be hamstrung in any respect  
24 with respect to their proof.

25 So are they offering 20,000 images or are they offering

1 something less than that?

2 MS. BAKSHI: Actually, I think what Ms. Hodde is  
3 referring to is a question that she posed. And we tried to  
4 clear it up, but apparently weren't successful.

5 That's not the case. We produced the images that we  
6 think we need to prove the 32 counts associated with the  
7 second superseding indictment. And that's what we've handed  
8 over to them.

9 What I did explain is that there may be different  
10 formats of those images, showing all images. We don't expect  
11 to show 20,000 on the big screen for Your Honor or the jury,  
12 but we might use books recompiling the web site.

13 I think the 3,000 number that she's referring to refers  
14 to one web site; whereas I offered as an example one of the  
15 web sites that's charged in the superseding indictment has in  
16 it itself 3,000 images. That's the only context in which I  
17 mentioned 3,000.

18 MS. HODDE: Okay. I'm still confused. But thank  
19 you for the effort at clarifying.

20 THE COURT: I'm sure the forensic report will be  
21 helpful.

22 MS. HODDE: Thank you, Your Honor.

23 THE COURT: So I'm going to deny Motion No. 105  
24 because I think the Government has complied.

25 Now, in terms of the second motion to compel and the

1 motion to amend the agreed protective order. Basically, the  
2 defense, I read your papers to basically be asking me to  
3 disregard this new law because your expert just has to  
4 examine these things at his own lab. And I'm afraid that I'm  
5 not going to disregard the new law. And we need to make this  
6 as helpful as we can for your analysis, but I'm not going to  
7 order duplication of these new hard drives in violation of  
8 the new law. And I don't think there's any way to interpret  
9 the new law in a way that would allow the duplication of  
10 these.

11 Now, it does apparently allow this examination in a  
12 Government controlled office or under the auspices of the  
13 Court. If it would help you more to do this analysis in, you  
14 know, the teleconferencing room or the training room of the  
15 courthouse, as opposed to the FBI offices, then I'm willing  
16 to discuss that.

17 I do want to ask the Government, however. The  
18 Government is consistently coming up with new terms that I  
19 don't have any idea what you're talking about. You were  
20 talking about a Taint Team. I have no idea what you're  
21 talking about. What is a Taint Team?

22 MS. BAKSHI: I'm sorry, Your Honor. We commonly  
23 use what we refer to as Taint Teams for discovery motions  
24 just like this. In those situations we provide investigators  
25 who are unrelated -- who are uninvolved in the prosecution

1 and who are not allowed to discuss with us anything related  
2 to what kinds of material the defense consultants looked at  
3 or anything substantive related to their investigation.

4 It allows us to provide somebody to shepherd something  
5 in a Government office and make sure they're complying with  
6 the protective order by not copying or taking away materials.  
7 At the same time, it provides them absolute assurance of  
8 confidentiality and privacy as they conduct their  
9 investigation on Government property.

10 THE COURT: So they really supervise the process,  
11 but then cannot talk to the prosecutors or the case agents.

12 MS. BAKSHI: Yes, Your Honor. That's correct.

13 THE COURT: It builds a Chinese wall.

14 MS. BAKSHI: Exactly, Your Honor.

15 THE COURT: All right. So let me hear from the  
16 defense on what they would like, what their proposal would  
17 be.

18 MS. HODDE: Your Honor, as far as my argument, I'm  
19 not exactly asking that the Court disregard the new law. I  
20 was suggesting an alternative method to providing the hard  
21 drives under the terms of the new law. And I just want to  
22 supplement my paper with this one argument.

23 Your Honor, under 18 USC 3509(m), I think the question  
24 is are these images reasonably available. And the statute  
25 itself attempts to answer that question by providing some

1 language about how it's basically reasonably available if the  
2 Government provides ample opportunity for inspection,  
3 viewing, and examination at a Government facility.

4 I'm urging the Court to find that the Government's  
5 suggestion does not provide ample opportunity to the  
6 defendant. And the problem is the same problem that we had  
7 in the spring, which is the Government facility is only going  
8 to allow us to have access to these images during Government  
9 business hours. And if we want to view it with Mr. Richards,  
10 we're going to have to work within the time frame set by the  
11 U.S. Marshal Service for transport. So we're going to be  
12 constrained to looking at these images and having access to  
13 them between the hours of 7:30 or 8:00 a.m. to 3:30 or 3:45,  
14 and that's it.

15 And this is a case -- as the Court is well aware, this  
16 is a case where counsel is working well into the evenings and  
17 on the weekends to try to get our hands around all of this  
18 evidence and be prepared for an October 10th trial. So the  
19 fact that the availability is limited to business hours is a  
20 substantial problem for the defense. And that is one of the  
21 reasons that I was going to suggest to the Court today that  
22 those hard drives should be produced and that our expert  
23 should be allowed to provide some of those images to counsel  
24 for our review with Mr. Richards in the evenings, which is  
25 when we've been seeing him, and on the weekends.



1 individuals that was supervising Mr. Richards.

2 I would suggest that any Taint Team literally not  
3 involve anybody that has any connection whatsoever to this  
4 case.

5 MS. BAKSHI: Responding to that first. The second  
6 point. That's fine with the Government. We'll be happy to  
7 provide investigators who are simply there to make sure that  
8 everyone is complying with the protective order and are able  
9 to come and go within the Government facility, who have  
10 nothing to do with the case. I've done that successfully in  
11 many other cases.

12 THE COURT: Why don't you get somebody from the  
13 Secret Service or the Postal Inspection Service or some  
14 agency that has absolutely no connection with this case?

15 I am rather appalled that you would have someone who has  
16 testified in any kind of a hearing in this case being part of  
17 a Taint Team, to be honest. How did that happen?

18 MS. BAKSHI: At that juncture it wasn't part of a  
19 Taint Team. We had simply made the material available and it  
20 was during the period that we were pending -- excuse me, we  
21 were litigating the issue of whether or not to turn over the  
22 contraband. And it was not styled any kind of Taint Team.  
23 It was simply the most available, the most expedient way of  
24 getting them into Government offices.

25 As my co-counsel is suggesting, the people who testified

1 have nothing to do with computer analysis. I can offer to  
2 the Court that that's not at all their area of expertise or  
3 area of knowledge. Instead, they basically testified about  
4 the arrest.

5 THE COURT: That's not enough. That's not enough.  
6 I want people who have absolutely no connection whatever with  
7 this case. And they really ought to be from another agency,  
8 in my view.

9 MS. BAKSHI: I certainly think that we can insist  
10 on that or we can assure the Court that they will have  
11 absolutely nothing to do with the investigation. They will  
12 not show up, nor will they communicate in any way the  
13 substance of what -- to anyone, at any point, the substance  
14 of what they're observing, if they observe anything about the  
15 investigation.

16 As a practical matter, I honestly don't know how the FBI  
17 would obtain services of another agency who is not assigned  
18 to the case. I'll make every effort to make that happen, but  
19 I don't know if that's a possibility.

20 The other point that my co-counsel is raising is that we  
21 are also happy to provide multiple copies of the material;  
22 one here in Nashville and one in Washington state, where  
23 their forensic expert is located. And the agent in  
24 Washington state will have absolutely nothing to do with this  
25 case. They have nothing to do with this case.

1           THE COURT: I'm going to grant leave to defense  
2 counsel if they show up for this examination and have any  
3 suspicions about any people that are on the Taint Team, to  
4 call my office as you would from a deposition when problems  
5 arise. And we'll deal with it. We'll get all counsel on the  
6 phone and we'll deal with it. Okay?

7           I don't want any later complaints about anybody that was  
8 a member of a Taint Team. Okay? I want to resolve them at  
9 the moment.

10          MS. HODDE: Thank you, Your Honor.

11          THE COURT: Now, I'm not going to order duplication  
12 of this material, in the face of the new law. I don't think  
13 that defense has made a case that the Government is not  
14 providing ample opportunity.

15          I know your expert keeps saying, you know, I've got to  
16 have it in my own lab. And I'm sure that, you know, someone  
17 sewing a dress would rather be sewing a dress on their own  
18 sewing machine as opposed to the sewing machine at the sewing  
19 store. But you are just going to have to cope with that.

20          I can't believe in the end that it makes that much  
21 difference. You certainly can make a record that it made a  
22 big difference. But at the front end, it's not clear to the  
23 Court that it will make a big difference.

24          So the Government has offered to make these available  
25 for inspection -- your inspection -- in two places. And you

1 all are the ones who have chosen -- and I'm sure there aren't  
2 very many experts in this field at this point, although there  
3 are probably getting to be a whole lot more. But you're the  
4 ones who have chosen to have an expert which is in the state  
5 of Washington; which is hampering, apparently, your  
6 preparation. But the Government didn't choose for you to  
7 have an expert in the state of Washington. So you are just  
8 going to have to do the best you can.

9 Now, do you have any interest in trying to arrange a  
10 different locale for this examination as opposed --

11 I would think the FBI office out on Murphy Road with  
12 free parking and everything else would be, you know, a better  
13 place to be than the courthouse.

14 But the Government has no suggestions in terms of other  
15 accommodations that could be made for the transportation of  
16 the defendant to be present to look at this stuff? Do you  
17 have any ideas about that?

18 MS. DAUGHTREY: Your Honor, I don't know how the  
19 Marshal Service would feel about transporting him out to the  
20 FBI office. Certainly, we've got some rooms available in the  
21 basement where we could provide the copies of these hard  
22 drives and the defendant could be present during the  
23 examination of those or any other matter.

24 THE COURT: In the basement of this building?

25 MS. DAUGHTREY: In the basement of this building,

1           yes.

2                     If the defendant were to be involved, I would recommend  
3           that we do it here in this building, in compliance with the  
4           U.S. Marshal's wishes.  If it's not involving them, then  
5           certainly here or at the FBI offices or in your conference  
6           room is fine.

7                     Just for your information, while they're talking, the  
8           FBI offices have actually moved out away from Murphy Road and  
9           out to Donelson now.

10                    THE COURT:  Thank you.

11                    MS. DAUGHTREY:  That should be equally convenient.

12                    THE COURT:  When did that happen?

13                    MS. DAUGHTREY:  Just over the last couple of  
14           months.

15                    THE COURT:  I see.

16                    MS. HODDE:  Your Honor, I think Mr. Strianse and I  
17           believe that it may be better for everybody if he views the  
18           images here in this building, as opposed to trying to go to  
19           another facility.

20                    THE COURT:  Okay.  That makes sense to me.  And  
21           that's right down in the corridor where they bring them in.

22                    I mean, I presume that if you need him, you know, many,  
23           many days, I presume the Marshal just brings him in.

24           Correct?

25                    MARSHAL FIELDER:  We're accustomed to dealing with

1           that, Judge.

2                       THE COURT:   But I don't think we could extend the  
3 hours in any way if he has to be transported back to Bowling  
4 Green.

5                       MARSHAL FIELDER:   To that end, Judge, if Bowling  
6 Green is presenting an issue as far as access because of the  
7 distance involved, I'll be more than happy to make  
8 arrangements to bring Mr. Richards down to the CJC here in  
9 Nashville, where his attorneys are.

10                      MS. HODDE:   Bowling Green is fine.  He's in a safe  
11 place in Bowling Green.  If he gets transferred to that  
12 jungle which is the CJC, I don't know what's going to happen  
13 over there.  I don't want to do anything to disturb that.

14                      THE COURT:   All right.  We'll leave him in Bowling  
15 Green.  And you'll just have to cope with the hours that are  
16 available.  The Marshal has indicated they'll bring him in as  
17 many days as you need to bring him in.

18                      Now, do you want to have all of your investigation, even  
19 when he's not present, taking place in that same room  
20 downstairs?

21                      MS. HODDE:   Yes, Your Honor.  I believe so.

22                      THE COURT:   Okay.  Is that all right with you?

23                      MS. DAUGHTREY:   Yes, Your Honor.  And I will make  
24 sure of that or work to get something available.  We have  
25 several different rooms.  It may not necessarily be in the

1 same room each time.

2 THE COURT: All right.

3 MARSHAL FIELDER: Judge.

4 THE COURT: Yes.

5 MARSHAL FIELDER: May I ask a question, please.

6 THE COURT: Yes.

7 MARSHAL FIELDER: What the Marshal Service would  
8 like to do with respect to Mr. Richards and his defense team,  
9 as well as the uninvolved agents from whatever agency ends up  
10 being involved in the Tank Team process, so as not to tie up  
11 my staff with having to be present with Mr. Richards  
12 downstairs, I would like the Court to understand and the  
13 attorneys on both sides of this issue to understand that I  
14 would like to make arrangements with whatever Tank Team  
15 agent --

16 THE COURT: Taint. T-a-i-n-t. Taint Team.

17 MARSHAL FIELDER: I'm sorry.

18 I would like to make arrangements so that whatever Taint  
19 Team agents show up in my cell block assume custody. And the  
20 process is well in place to do that, so that the Taint Team  
21 people can take him down to do the work that they need to do  
22 without involving my staff or anyone else. When they're  
23 done, they return him.

24 I just don't want that to become an issue somewhere down  
25 the road.

1           THE COURT: Yes. We don't want to have to have  
2 Marshal staff there all day.

3           Do you all understand that? Is that all right with  
4 everyone? Can you say for the record.

5           MS. HODDE: Yes, Your Honor. That's how it worked  
6 before, and that's agreeable.

7           MARSHAL FIELDER: Thank you, Judge.

8           THE COURT: Okay. Thank you, Mr. Fielder.

9           Okay. Does that deal with everything that's pending?

10          MS. HODDE: Your Honor, I just want to make sure.

11          As far as Mr. Sprowl in Washington, I'm going to work  
12 that out with Ms. Daughtrey or some representative of the  
13 Government. We will set that up at the nearest Government  
14 facility to where he is located in Kennewick, Washington.

15          MS. DAUGHTREY: Can you spell that?

16          MS. HODDE: K-e-n-n-e-w-i-c-k.

17          MS. BAKSHI: The Government certainly agrees to  
18 that. It would be the nearest FBI facility to Kennewick,  
19 Washington, wherever that would be.

20          THE COURT: Okay. Anything else?

21          MS. HODDE: Your Honor, may I make one inquiry?  
22 How long is the Government currently estimating its case in  
23 chief is going to take in this case?

24          MS. DAUGHTREY: Your Honor, the Government is  
25 anticipating two weeks. I think if the cross examination

1 gets to be significant, it's possible that it could last  
2 longer than that. But we're not expecting it to take more  
3 than about eight to ten days to put on the Government's  
4 proof.

5 THE COURT: Okay.

6 MS. HODDE: Thank you, Your Honor.

7 THE COURT: Any estimate from you all?

8 MS. HODDE: We're thinking four days from the  
9 defense, possibly five.

10 THE COURT: Okay. Let me alert you, if I have not  
11 already done so, of two breaks that will occur in our  
12 calendar. We will not be having court on the afternoon of  
13 Friday, October 20th. And we will not be having court at all  
14 on Friday, October 27th. So at this point those are the only  
15 breaks that I know about.

16 Okay. Is that it?

17 MS. HODDE: Yes, Your Honor. Thank you.

18 THE COURT: Very good. Thank you. We're in  
19 recess.

20 (Recess was taken at 10:40 a.m.)  
21  
22  
23  
24  
25

1  
2 REPORTER'S CERTIFICATE3  
4 I, Dorothy Stiles, Official Court Reporter  
5 for the United States District Court for the Middle District  
6 of Tennessee, with offices at Nashville, do hereby certify:7 That I reported on the Stenograph machine  
8 the proceedings held in open court on September 7, 2006, in  
9 the matter of UNITED STATES OF AMERICA vs. TIMOTHY RYAN  
10 RICHARDS, Case No. 3:05-CR-00185; that said proceedings in  
11 connection with the hearing were reduced to typewritten form  
12 by me; and that the foregoing transcript (Pages 1 through 30)  
13 is a true and accurate record of said proceedings.14 This the 18th day of May 2007.  
15  
16  
17  
18  
19

20 /s/ Dorothy Stiles, RMR, CRR

21 Official Court Reporter  
22  
23  
24  
25