

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Citizens for Trump,
et al.,
Plaintiffs,
vs.

Case No. 1:16-cv-01465-JG
Cleveland, Ohio
Wednesday, June 23, 2016
10:00 a.m.

City of Cleveland,
et al.,
Defendants.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES S. GWIN,
UNITED STATES DISTRICT JUDGE

Official Court Reporter: Heidi Blueskye Geizer,
Certified Realtime Reporter
United States District Court
801 West Superior Avenue
7-178 U.S. Court House
Cleveland, Ohio 44113
216-357-7092

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 APPEARANCES:

2 For the Plaintiffs: Freda J. Levenson
3 Elizabeth M. Bonham
4 ACLU of Ohio
5 4506 Chester Avenue
6 Cleveland, Ohio 44103
7 216-472-2220

8 For the Defendants: L. Stewart Hastings, Jr.
9 Thomas J. Kaiser
10 Gary S. Singletary
11 Richard F. Horvath
12 City of Cleveland
13 Department of Law
14 Ste. 106
15 601 Lakeside Avenue
16 Cleveland, OH 44114
17 216-664-2665

18 Yvette M. Brown
19 Jones Day
20 Ste. 600
21 325 John H. McConnell Blvd.
22 P.O. Box 165017
23 Columbus, Ohio 43216-5017
24 614-281-3867

25 Thomas S. Kogelman
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
216-586-1047

- - - - -

1 MORNING SESSION, WEDNESDAY, JUNE 23, 2016 10:00 A.M.

2 (Call to order of the Court.)

3 THE COURT: We're here today on Case Number
4 2016-cv-1465, Citizens for Trump versus the city of
10:03:10 5 Cleveland. The case is here today for hearing as to whether
6 a temporary restraining order or preliminary injunction
7 should be issued in the case.

8 I earlier entered an order consolidating the two
9 hearings because of a belief that the time appeared to be
10:03:28 10 somewhat essential in the case. So at this point in time
11 I'd ask the plaintiff if you wish to make any statement on
12 behalf of the ACLU or any of the other named plaintiffs.

13 MS. LEVENSON: Yes, Your Honor. As to the
14 merits of the TRO and preliminary injunction motions?

10:03:49 15 THE COURT: Yes.

16 MS. LEVENSON: Yes. If it please the
17 Court --

18 THE COURT: It might be easiest to go to the
19 podium, where you're close to a microphone.

10:03:58 20 MS. LEVENSON: Thank you, Judge.

21 I'm Freda Levenson from the ACLU of Ohio. We
22 represent the Citizens for Trump, Organize Ohio, and the
23 Northeast Ohio Coalition for the Homeless.

24 We're invoking today a core constitutional right, the
10:04:16 25 right for people to come together to express themselves on

1 political issues, at the moment of one of the most
2 significant political events that ever occurs in our
3 country. Speech and assembly are central rights of
4 Americans, and never more so than on occasions like this,
10:04:33 5 the nominating convention of one of our country's two major
6 political parties.

7 So while courts always put the burden on the
8 government to prove that a content-neutral restriction on
9 expressive activity --

10:04:45 10 THE COURT: Is there an agreement that this
11 regulation is content neutral?

12 MS. LEVENSON: We agree with that, Your Honor,
13 and I believe the defendants do, as well.

14 THE COURT: Okay. Why don't you go on.

10:04:56 15 MS. LEVENSON: Yes, Your Honor. A
16 regulation on expressive activity must be narrowly tailored
17 to further significant government interests, and it must
18 leave open alternatives to communicate with the intended
19 audience.

10:05:13 20 THE COURT: So in this case the
21 principal -- it sounds like there's a number of arguments
22 you have. I'm familiar with the background and the general
23 standing, but you seem to have complaints about the parade
24 regulation. And that seems to be both a complaint about the
10:05:35 25 route, together with a complaint about the time of day, and

1 a complaint about kind of the finish of the parade route.

2 You also seem to have some complaint about a lack of
3 alternative routes. You also seem to have some complaint
4 about the inability to use other parks apart from the Public
10:06:04 5 Square, and complaints about the inability to generally have
6 speeches either on sidewalks or in some kind of street
7 position.

8 MS. LEVENSON: Yes. Your Honor has obviously
9 read and digested our pleadings.

10:06:22 10 I would like to explain that since we filed our
11 complaint last week what we seek in relief has shifted in a
12 few ways, and I'd like to clarify that.

13 THE COURT: Is there any complaint right now
14 about the permits? Because it appeared that the city had
10:06:36 15 issued permits to at least a fair number of applicants.

16 MS. LEVENSON: And denied permits to some as
17 well. Yes, you're right, Your Honor.

18 THE COURT: I had not seen the denials. Was
19 the denial based upon routes, or what was the reason given
10:06:52 20 for the denials?

21 MS. LEVENSON: Your Honor, we don't understand
22 the reason for the denials. It seemed to be that the route
23 requested wasn't the route that was offered as to the
24 parades.

10:07:05 25 THE COURT: Were the parades requesting routes

1 apart from the Carnegie-to-Lorain bridge?

2 MS. LEVENSON: Both of our clients requested
3 parades that were on different routes. One received a
4 parade permit for the official route but was denied a park
10:07:20 5 permit, and the reason for the park permit denial isn't
6 entirely clear to us.

7 We are appealing both denials. And at this point the
8 denials are being administratively appealed, so that unless
9 we can resolve something there, you may hear back from us on
10:07:37 10 those. But we're not here before you today on the permit
11 issuances or denials.

12 THE COURT: Okay. It seemed in your brief
13 that you recognize that there's some governmental interest
14 in kind of controlling the flow of traffic, and so forth
10:07:57 15 within the area, but it seems that your major argument is
16 that the regulations are not proportional to the city's
17 needs.

18 MS. LEVENSON: That's exactly right. There is
19 a complete disconnect. There's no nexus between the extent
10:08:18 20 of the regulations. The regulations draw a zone, as Your
21 Honor apparently is aware --

22 THE COURT: Are you challenging at all the
23 more secure zone immediately surrounding the Q?

24 MS. LEVENSON: The inner security zone which
10:08:35 25 the Secret Service will draw or has drawn has not been

1 announced yet, so we do not presently challenge that. We
2 don't even know precisely where it will be.

3 What we do challenge is what's called the event zone,
4 and that's a zone of over three and a half square miles that
10:08:52 5 encompasses a swath of downtown Cleveland, that extends
6 through neighborhoods very far from the convention site.

7 And the problem --

8 THE COURT: So it roughly goes to West 25th,
9 and on the southern end would be somewhere around Carnegie?

10:09:09 10 MS. LEVENSON: Yes, Your Honor.

11 THE COURT: And then goes east to what street?

12 MS. LEVENSON: To Asia town, the Innerbelt,
13 and then north to the lake. And our problem with this is
14 with the size of the event zone is that the First Amendment
10:09:25 15 activities inside the entire zone will be severely
16 restricted. The rules that will take effect inside the zone
17 prohibit parades; prohibit parades. They place severe
18 limitations on speech giving and assemblies, and impose
19 other restrictions.

10:09:41 20 THE COURT: Are the limitations mostly you're
21 not allowed to have microphones, or what's the limitation?

22 MS. LEVENSON: The limitation on parades is an
23 absolute prohibition on parades. The official parade route
24 goes --

10:09:54 25 THE COURT: No, I understood the parade. I

1 was talking about the speeches.

2 MS. LEVENSON: Speech giving, the limitation
3 that it imposes is slightly bizarre. There's a particular
4 regulation that prohibits -- let me get the exact language
10:10:12 5 of the regulation -- this is the most galling example of
6 prohibition of speech activity within the zone.

7 The city has banned throughout this 3.54 square mile
8 zone the, quote, placement and use of a stand or, quote,
9 similar object to make a public speech. So the city has
10:10:45 10 actually prohibited the proverbial soapbox; not if you are
11 carrying it around, but if you place or use it to stand on
12 to speak. And we ask that this specific -- we call it the
13 speech paraphernalia regulation, be stricken. It's a
14 blanket restriction that applies throughout this entire zone
10:11:06 15 without justification.

16 THE COURT: Are you forbidden from giving
17 speeches?

18 MS. LEVENSON: No, but Your Honor, to speak to
19 any number of people, the speaker typically is elevated so
10:11:19 20 that they can see and their voice can project. The type of
21 amplification devices is also limited to the weaker
22 hand-held types that also makes it difficult to project
23 one's voice.

24 THE COURT: But you're allowed to use a
10:11:33 25 battery-operated?

1 MS. LEVENSON: Correct.

2 THE COURT: Do the regulations allow you to
3 use a battery-operated microphone?

4 MS. LEVENSON: Yes, Your Honor, they do, but
10:11:41 5 the speaker cannot be seen or see who they're speaking to.

6 THE COURT: With regard to signs or banners,
7 are those limited, in your view?

8 MS. LEVENSON: The materials that can be used
9 to construct a sign or banner or to affix something
10:11:57 10 somewhere are limited, there can't be string or tape longer
11 than a six-foot length. But other than that, there's no
12 express prohibition on signs or banners.

13 THE COURT: So could you bring banners or
14 signs and walk them along the sidewalks in the restricted
10:12:19 15 area?

16 MS. LEVENSON: Theoretically, yes, Your Honor,
17 but you're also not permitted to obstruct any pedestrian
18 traffic on the sidewalk. And you need to obey street
19 crossing rules, so that anyone carrying it would have to
10:12:35 20 stick to one side of the sidewalk and cross the street with
21 a light; not what one would refer to as a parade and not
22 suitable for a mass activity.

23 So to get back to the size of this event zone which
24 bothers us, it is because of the size of this zone. The
10:12:52 25 immensity of it and the restrictiveness of the regulations

1 within it, they amplify each other. The interaction of
2 these two variables, the size and the restrictions, the
3 interaction is pernicious.

4 So because the event zone restricts First Amendment
10:13:14 5 activity that takes place inside, the zone must be tailored
6 to restrict no more speech than necessary to achieve a
7 significant governmental interest. And that means -- and
8 this is really the crux of our largest complaint -- that the
9 zone must be drawn carefully, and it has to be justified in
10:13:32 10 a granular way on the map so that it doesn't sweep in and
11 unnecessarily burden activities in areas where the city
12 doesn't need --

13 THE COURT: What is your version of what a
14 narrowly-drawn district would be?

10:13:44 15 MS. LEVENSON: Well, prior to receiving the
16 city's briefs, when we filed our initial complaint and
17 motion we attached a proposed order that showed a more
18 narrowly-drawn zone, but actually after having read the
19 defendants' offerings, they have justified the -- and the
10:14:05 20 burden is on them to justify the extent of any restriction.
21 So the extent of the zone, they justify it by drawing four
22 points. They mention four points in the deputy chief's
23 affidavit that was attached to the complaint, four points on
24 the map that they say justify the zone.

10:14:31 25 And even accepting the deputy chief's rationale for

1 each of these spots, we placed them on the map, and three of
2 the four spots are actually convention-related sites already
3 well within the zone that will probably be in the secure
4 zone, and well within the zone we proposed in our order.

10:14:50 5 And the fourth spot is a disused police station that's less
6 than 4,000 feet east of the convention sites. So the event
7 zone could be drastically tailored down in size and easily
8 contain this one additional spot. It's a pixel on the map.
9 So the city's narrow tailoring would be a very small zone,
10:15:11 10 if any.

11 Cleveland didn't --

12 THE COURT: Just for the audience or for my
13 purposes, more specifically, what zone are you saying would
14 be satisfactory?

10:15:27 15 MS. LEVENSON: Well, Judge, we did attach --

16 THE COURT: Give me some street names, is what
17 I'm asking for.

18 MS. LEVENSON: Certainly, Judge. Excuse me.

19 Okay. My colleague, Ms. Bonham, is going to name the
10:16:24 20 streets that define the proposed zone that we had in our
21 draft proposed order.

22 MS. BONHAM: Your Honor, excepting the
23 restricted streets that defendants have announced in their
24 brief, we could draw a zone that comes down East 12th, that
10:16:48 25 excepts East 9th, the press shoot they indicated.

1 On the other side, the west side as far out as
2 Ontario, south to Carnegie, and even north to the lake, it
3 would be drastically smaller than the one that they have
4 drawn now, and it would account for all the points that
10:17:06 5 they've raised.

6 THE COURT: Okay.

7 MS. LEVENSON: The zone would be about 20
8 percent of the zone drawn by the city.

9 THE COURT: And then within that you still
10:17:21 10 continue to complain with regard to the parade route.
11 What's your version of what an appropriate restriction would
12 be on the parade route?

13 MS. LEVENSON: The parade route is one route
14 that actually people have applied for and are using. The
10:17:44 15 trouble with the parade route is that it's the sole option
16 available to any potential marcher.

17 We have two clients, for instance, that for their own
18 symbolic logistical reasons don't find that route acceptable
19 and have proposed other routes. After receiving the city's
10:18:06 20 justifications for not allowing certain streets to be used
21 as parade routes, and the city has identified portions of
22 just eight streets in its briefing --

23 THE COURT: I'm not sure what you're saying.

24 MS. LEVENSON: -- other than portions --

10:18:27 25 THE COURT: They proposed using the bridge.

1 What are your two clients proposing?

2 MS. LEVENSON: Our clients would be very
3 pleased to receive permission to march on many of the other
4 streets that the city has not articulated should be
10:18:45 5 unavailable, and in fact they have proposed several
6 alternative routes, and we have included a description of
7 those routes in our reply. And we have maps of those, Your
8 Honor. Our clients would be willing to work with the city
9 to negotiate alternative routes.

10:19:01 10 And I'd like to point out that other convention host
11 cities have permitted multiple routes. New York in its
12 convention, and I believe St. Paul also in its convention
13 regulation, permitted multiple parade routes.

14 That's what we ask for. We ask for the ability to
10:19:22 15 have alternative routes.

16 THE COURT: So your basic argument then is
17 that the limitations contained within the city's convention
18 ordinance are unduly violative of the First Amendment right
19 to speak of your respective clients.

10:19:46 20 MS. LEVENSON: Yes, Judge, that's exactly
21 right.

22 THE COURT: Well, why don't I afford the city
23 an opportunity to respond, and then we'll kind of take it
24 from there.

10:19:56 25 MS. LEVENSON: May I --

1 THE COURT: Do you envision any witnesses?

2 MS. LEVENSON: We don't intend to present
3 witnesses today, Your Honor.

4 THE COURT: Okay.

10:20:02 5 MS. LEVENSON: May I add one thing to our list
6 of requests though? We would also request an order making
7 it possible for a group to take out a public site use permit
8 for the purpose of conducting a planned assembly. That's
9 another one of the onerous restrictions.

10:20:26 10 THE COURT: Which park or public area are you
11 talking about?

12 MS. LEVENSON: We're talking about all of the
13 park and public areas within the immense event zone. Prior
14 to the advent of the regulations, groups were free to
10:20:39 15 reserve public places -- parks, road closure sites -- to
16 meet, to have speeches, conduct rallies or other activity,
17 and the city has shut down the public site permit system
18 during the convention, making only two small parks available
19 for permits, and these only for art and installations.

10:20:59 20 All of the other locations in the event zone which
21 contains at least five other parks and at least six commonly
22 permitted road closure sites, and we've listed them in our
23 reply, these are now completely unavailable. And of course
24 as I've mentioned, nor can speaker stands be placed in any
10:21:17 25 park, and no amplification other than weak.

1 So banning the accoutrements for speeches and shutting
2 down the park reservation system effectively shuts down any
3 planned assembly for any group of any size. Two of our
4 clients expect to have groups of 5,000 or more. They can't
10:21:36 5 assemble in a planful or safe way anywhere under the current
6 regulations.

7 The city has effectively banned the populous from
8 assembly throughout the entire event zone, where absent the
9 regulations to they could have assembled. And the city has
10:21:51 10 not offered any reason whatsoever to impose these
11 restrictions, or for that matter any restrictions on
12 assembly throughout the entire zone, so there's no evidence
13 of tailoring.

14 So we would also request that the Court require the
10:22:06 15 city to open up its permitting process to allow groups to
16 apply for public site usage that was available to them
17 within the zone prior to the regulations.

18 THE COURT: Okay. Thank you.

19 Let me give the city an opportunity to respond.

10:22:21 20 MS. LEVENSON: Thank you, Judge.

21 MR. HASTINGS: Thank you, Your Honor. A
22 matter of housekeeping first, we have a motion *pro hac vice*
23 for Yvette McGee Brown.

24 THE COURT: I'll grant that motion.

10:22:32 25 MS. BROWN: Thank you, Judge.

1 MR. HASTINGS: Thank you, Your Honor.

2 THE COURT: What's the significant
3 governmental interest that justifies the event zone?

4 MR. HASTINGS: Well, Your Honor, as the other
10:22:47 5 cases have held, the government has an extreme interest in
6 public safety.

7 THE COURT: Well, I guess yesterday's
8 activities, do they read on that argument?

9 MR. HASTINGS: No, Your Honor.
10:23:02 10 Yesterday's --

11 THE COURT: What was the number of people that
12 were in downtown Cleveland?

13 MR. HASTINGS: I think it was 1.3 million,
14 Your Honor.

10:23:08 15 THE COURT: And so in terms of public safety,
16 what's the worst case scenario or perhaps the best case
17 argument as to how many people would be coming downtown
18 during the convention?

19 MR. HASTINGS: Well, we know that there are
10:23:25 20 50,000 media official visitors, people slated to come to the
21 convention --

22 THE COURT: And 2,500 delegates.

23 MR. HASTINGS: Yes, that includes 2,500
24 delegates. We don't --

10:23:37 25 THE COURT: So what's the top? Somewhere

1 around 50 to a hundred thousand?

2 MR. HASTINGS: Well, in terms of top, one
3 group said they plan to bring two million, but the estimates
4 have varied widely.

10:23:51 5 THE COURT: What's the expectation from some
6 of the other cities? How many people typically go to one of
7 these?

8 MR. HASTINGS: I think an additional -- up to
9 50 to a hundred thousand.

10:24:02 10 THE COURT: So you're talking about maybe 1/10
11 or 1/15 of the people that were on the street yesterday?

12 MR. HASTINGS: Yes, Your Honor.

13 THE COURT: So in terms of the ability to
14 handle the traffic or handle, you know, emergency room calls
10:24:20 15 or things of that nature, was there significant problems
16 yesterday getting people to either MetroHealth or the
17 Clinic, or other healthcare facilities?

18 MR. HASTINGS: I don't believe so, Your Honor,
19 but again, the big distinction is that yesterday did not
10:24:36 20 occur during the Republican National Convention.

21 THE COURT: What's the difference? If the
22 city's interest is in insuring kind of a functional city,
23 and you've got 1/10 as many people as were out yesterday,
24 what's the difference?

10:25:00 25 MR. HASTINGS: There's a major difference,

1 Your Honor, a lot of differences.

2 The first difference is that in the Republican
3 National Convention the Secret Service is going to be
4 creating a hard zone. They're going to be closing streets.
10:25:16 5 They are going to be affecting significantly the
6 infrastructure of the city.

7 THE COURT: Well, didn't that happen
8 yesterday? I mean, all the central part of the city kind of
9 that laid over the same area we're talking about, I mean the
10:25:32 10 hard zone, weren't they all pretty well closed?

11 MR. HASTINGS: No. The hard zone was not
12 established yesterday, Your Honor.

13 THE COURT: I didn't mean it was established,
14 but the streets and the parks, and so forth, around the
10:25:42 15 convention center, weren't the roads closed and weren't the
16 whole area basically --

17 MR. HASTINGS: A number of roads were closed,
18 but every single artery that led up to that area was open.
19 If an emergency occurred, every single artery in the city
10:25:59 20 was available to transport people to a hospital, for
21 example. Every single artery of the city was available for
22 emergency evacuation --

23 THE COURT: What do you envision the Secret
24 Service doing? The hard zone they obviously are going to
10:26:14 25 control, but beyond the hard zone associated with the Q,

1 what's likely that they're going to shut down?

2 MR. HASTINGS: There's going to be a hard zone
3 connected with the Q and Progressive Field, because
4 Progressive Field is part of the event complex. In
10:26:32 5 addition, there's going to be a Secret Service hard zone
6 connected with the Huntington Convention Center, because
7 that is where the domestic and international media are going
8 to be located. And under the Ron Rowe affidavit, that is
9 also part of the Secret Service charge is to protect the
10:26:49 10 media.

11 There will be a secure media shuttle, a corridor
12 fenced on both sides that would connect the Huntington
13 Convention Center to Progressive Field and the Quicken Loans
14 Arena.

10:27:04 15 THE COURT: Once again, what's the
16 governmental interest that you're trying to tailor this to?

17 MR. HASTINGS: Again, Your Honor, the
18 first -- one of the primary governmental interests is public
19 safety. Unlike yesterday, the Republican National
10:27:18 20 Convention has been announced for a long time. There are
21 international enemies, there are domestic enemies that would
22 love to target our city, would love to target the Republican
23 National Convention for their political statement.

24 THE COURT: Well, but that's probably true for
10:27:36 25 yesterday, wasn't it?

1 MR. HASTINGS: Well, I don't believe that ISIS
2 predicted the Cavalier win and victory parade. I suspect
3 they probably planned for Oakland.

4 THE COURT: You have the Boston Marathon
10:27:48 5 bombing.

6 MR. HASTINGS: That's a good example. That
7 was a preplanned attack. The Boston Marathon bombing
8 was --

9 THE COURT: But it was a sports event, it was
10:27:55 10 not a political event.

11 MR. HASTINGS: Right. The Boston Marathon is
12 scheduled, that schedule is known actually years in advance.
13 A domestic or international terrorist can plan well in
14 advance of the Boston Marathon. Our parade yesterday --

10:28:11 15 THE COURT: Neither Orlando or Boston, neither
16 of them, as far as I can tell, those were not, you know,
17 hatched overseas, those were both locally-grown terrorist
18 attacks, weren't they?

19 MR. HASTINGS: I believe that they were both
10:28:25 20 international-inspired terrorists.

21 THE COURT: Well, inspired, but they were
22 locally hatched, right?

23 MR. HASTINGS: I'm not sure what you mean by
24 hatched, Your Honor, but they were inspired by --

10:28:35 25 THE COURT: So the government interest, what's

1 the argument, that you can shut down everything because of a
2 concern that Cleveland or someplace else might be the
3 target, that the convention might make it something of a
4 more attractive target?

10:28:56 5 MR. HASTINGS: Well, everything is not shut
6 down. We are trying to keep everything open. And in fact,
7 Cleveland will be the most open convention for public speech
8 in recent history. If you look at the Larson declaration,
9 they would like more regulation.

10:29:12 10 Most conventions have a soft zone around the hard zone
11 where public demonstrations are prohibited. Cleveland is
12 not going to do that. These plaintiffs, if they want to,
13 and Ron Rowe is here and able to testify about not the exact
14 dimensions of the hard zone, but there will be a hard zone
10:29:31 15 with a fence around it, around the hard zone, for the Secret
16 Service. There all the roads will be closed because they
17 don't want potential truck-based bombs to be able to get all
18 the way up to the fence in the hard zone. So those streets,
19 and one of them we believe will be Prospect Avenue has been
10:29:49 20 identified, one of them East 4th Street just south of
21 Prospect Avenue has been identified, the streets will be
22 closed to vehicles, but open to the public and open to
23 pedestrians.

24 THE COURT: Are you going to have screenings
10:30:06 25 at the edge or are you going to set up a perimeter around

1 this event area?

2 MR. HASTINGS: No.

3 THE COURT: Well, then how is stopping
4 speeches on street corners on top of a -- you know, with a
10:30:24 5 microphone or on top of a soapbox, how is that going to
6 alleviate this terrorist -- and there will be traffic in the
7 event zone, right? Cars and trucks?

8 MR. HASTINGS: Yes, but not --

9 THE COURT: Not in the hard zone, right?

10:30:44 10 MR. HASTINGS: Not in the hard zone and not
11 next to the hard zone. All the streets next to the hard
12 zone will be closed to traffic.

13 THE COURT: Then in the rest of the three-mile
14 area you could have cars with truck bombs or you could have
10:30:55 15 people with weapons. You're not going to stop and search
16 everybody, are you?

17 MR. HASTINGS: No, but that's why we have the
18 list of prohibited items. That's why we have event
19 zones --

10:31:05 20 THE COURT: How are the speeches narrowly
21 tailored to this terrorist concern?

22 MR. HASTINGS: Speech is not curtailed in any
23 way, Your Honor. If they want to walk right up to the fence
24 and put a bullhorn in their mouth and shout at the
10:31:21 25 delegates, they're allowed to do that.

1 THE COURT: To use an example, say somebody
2 wants to have a march on Carnegie Boulevard, kind of
3 tracking the route that was taken yesterday. How is that
4 going to raise a terrorist concern?

10:31:39 5 MR. HASTINGS: Well, closing streets is a
6 different governmental concern. Again, there have been a
7 lot of streets --

8 THE COURT: Is there any terrorist concern
9 associated with using Carnegie or a similar route for a
10:31:52 10 parade?

11 MR. HASTINGS: I'm not aware of a terrorist
12 concern, Your Honor, but again, Carnegie is the main artery
13 to go east for the Cleveland Clinic and University
14 Hospitals, which is covered in our declaration. It is a
10:32:03 15 major concern, and maybe it is related to terrorism. If
16 there is a terrorist incident a lot of people are going to
17 have to be transported to Metro, to University Hospitals,
18 the two only trauma centers in Cuyahoga County.

19 THE COURT: Are you familiar -- what's your
10:32:21 20 read on the *Coakley* case on the narrow tailoring question.

21 MR. HASTINGS: We believe this is narrowly
22 tailored in light -- again, it's a balancing issue -- in
23 light of the very significant security risk involved in the
24 Republican National Convention, which is a pre-planned
10:32:43 25 convention, high political visibility, ideal target for

1 international and domestic terrorism --

2 THE COURT: Well, wait. I thought you said
3 kind of the three-mile zone wasn't really aimed at the
4 terrorist issue, because you weren't searching trucks or
10:33:01 5 cars or individuals that come within that.

6 MR. HASTINGS: No.

7 THE COURT: I thought you were arguing that
8 the three-mile area was more directed towards traffic flow
9 and kind of general operation issues.

10:33:15 10 MR. HASTINGS: There are different
11 governmental interests, and a lot of them coincide, Your
12 Honor. Yes, the whole event zone, there are concerns about
13 terrorism, that is true. We have chosen not to ban trucks.

14 THE COURT: So you're not searching trucks and
10:33:26 15 you're not searching individuals in the three-mile zone.
16 How do the regulations even help you with regard to
17 terrorist issues?

18 MR. HASTINGS: There's been no allegation that
19 we're not searching trucks. In fact --

10:33:41 20 THE COURT: Let me ask you to answer my
21 question. I asked you how does the three-mile zone help you
22 with terrorist issues if you're not searching trucks,
23 searching individuals.

24 MR. HASTINGS: We are searching trucks. I
10:33:55 25 don't know what I'm allowed to say, Your Honor, but trucks

1 that go within the event zone do get searched.

2 THE COURT: Okay. Well, how does the
3 limitation of speech to Public Square, how does that help
4 you with terrorist issues?

10:34:16 5 MR. HASTINGS: There are no limitations on
6 speech in Public Square.

7 THE COURT: Well, you don't allow the use of
8 any public spaces or public parks for speeches, do you?

9 MR. HASTINGS: No, that's absolutely not true.

10:34:28 10 THE COURT: Well --

11 MR. HASTINGS: All the public parks, all
12 public spaces are available for public speech.

13 THE COURT: I thought there was a limitation,
14 that people were limited to speaking only at Public Square.

10:34:40 15 MR. HASTINGS: No. No. Again, that goes back
16 to my first comment. Unlike other conventions, the city of
17 Cleveland has chosen not to create a no-protest zone. I
18 know that's a double negative. There are no no-protest
19 zones.

10:34:53 20 People are allowed to protest and give their speech
21 wherever they want. They can walk right up to the hard zone
22 fence and they will be able to see delegates. They will be
23 able to see the delegates. They are allowed to go to the
24 entrances where delegates enter the hard zone. As long as
10:35:12 25 they don't obstruct those entrances, they are allowed to

1 speak to those delegates as they enter the hard zone.

2 THE COURT: Maybe I'm misunderstanding, but
3 I'm looking under paragraph C. "No person shall use the
4 official speakers platform without first registering as
10:35:37 5 provided in these regulations. No person shall use a
6 speaker platform during the period inside the event zone
7 except for the official speaker platform."

8 What does that mean? Doesn't that mean that you're
9 only allowed to speak from a speaker's platform if you're in
10:36:03 10 the Public Square area?

11 MR. HASTINGS: The only platform you're
12 allowed -- no, it doesn't, Your Honor. You are allowed to
13 speak at Public Square. You are allowed to speak at any
14 natural platform that you can find. If you want to stand on
10:36:19 15 a curb, if you want to stand on a divider, concrete divider,
16 if you want to stand on a higher ground, you're allowed to
17 do that.

18 THE COURT: What if somebody wanted to bring a
19 folding table to a park and wanted to stand on that folding
10:36:34 20 table and address a hundred followers, would they be
21 permitted to do it?

22 MR. HASTINGS: Tables are considered
23 installations, Your Honor, and there is a permit process for
24 public installations.

10:36:45 25 THE COURT: Well, I thought -- would they be

1 able to do it?

2 MR. HASTINGS: A folding table sounds
3 dangerous to me, Your Honor.

4 THE COURT: That may sound dangerous to me,
10:36:56 5 but I'm not getting up on it.

6 MR. HASTINGS: Right. And there is a public
7 interest in making sure people don't hurt themselves.

8 THE COURT: But just what I'm asking is under
9 the regulation are they permitted to do it?

10:37:07 10 MR. HASTINGS: They are permitted to ask to
11 have a table set up.

12 THE COURT: In a public park.

13 MR. HASTINGS: In two public parks, Willard
14 Park or Perk Plaza.

10:37:17 15 THE COURT: What if they want to do it in a
16 different one?

17 MR. HASTINGS: The other public parks are free
18 and open to the public. They are very small parks.

19 Cleveland is not blessed like some other convention cities,
10:37:30 20 like New York with Central Park or Boston with the Boston
21 Commons, with hundreds of acres central park where people
22 can go to.

23 Cleveland has very small parks. Two of the largest
24 are Willard and Perk, and they are small parks. Public
10:37:45 25 Square is a very large park. And we encourage people to go

1 to Public Square if they want to have their rallies. They
2 hold a lot of people.

3 THE COURT: But you're limited to a half hour,
4 and you have to get in line, right?

10:37:57 5 MR. HASTINGS: A lot can be said in a half
6 hour, Your Honor.

7 THE COURT: Maybe more than we want to hear.

8 MR. HASTINGS: Perhaps, but my father was a
9 minister; I know every week he had to give a sermon of 20
10:38:09 10 minutes, and he said a lot in those 20 minutes.

11 I think that that is ample opportunity. And again,
12 Your Honor, there are competing interests. The city wants
13 public speech. They can go to any public park. Someone
14 can, stand there all day if they want to, fill it up if they
10:38:29 15 want to. They can do all of that. They can use their
16 bullhorns, any hand-held operating device.

17 Things that are bigger than hand-held operating
18 devices represent security risks. They can conceal bombs,
19 and that is something the city is very concerned about. A
10:38:45 20 large speaker system can also be a bomb.

21 We are not limiting people's ability to amplify.
22 There's no decibel limitation on a hand-held bullhorn. I
23 know some bullhorns can get very loud. There is no speech
24 regulation at all. If they want to stand at Prospect Avenue
10:39:08 25 when it's closed to vehicles, we'll be able to hold a lot of

1 people.

2 There is a triangular park right next to Progressive
3 Field that's near where we believe busses will be letting
4 off delegates that can hold 8 or 9,000 people. That park is
10:39:25 5 available to the public. They can come there, they can hold
6 their signs. They can distribute their message. They can
7 find out where the entrances are to the various -- where the
8 bus entrances are, for the walking entrances for the
9 convention, and they can stand there. As long as they don't
10:39:44 10 obstruct them, they can stand there and deliver their
11 message.

12 THE COURT: Take a look at your screen,
13 because I'm trying to follow up on this.

14 So a speakers platform is a podium platform, pedestal,
10:40:02 15 stand, or similar object, other than the official speakers
16 platform. So you broadly define speakers platform, right?

17 MR. HASTINGS: Yes.

18 THE COURT: But then don't you also then go on
19 to say that no person shall use a speakers platform during
10:40:23 20 the period inside the event zone except for the official
21 speakers platform.

22 MR. HASTINGS: Yes, Your Honor.

23 THE COURT: So aren't you saying there that
24 you're forbidding anybody from speaking in any park --

10:40:37 25 MR. HASTINGS: No.

1 THE COURT: -- if it qualifies as a speakers
2 platform?

3 MR. HASTINGS: They're not allowed to bring
4 their own platform.

10:40:43 5 THE COURT: Are they allowed --

6 MR. HASTINGS: They're allowed to speak.

7 THE COURT: Are they allowed to bring
8 amplifying --

9 MR. HASTINGS: Yes. They can bring a
10:40:49 10 bullhorn, they can bring any hand-held operated device to
11 amplify their voice.

12 THE COURT: What about something that if
13 there's a crowd of a hundred that want to hear the person,
14 are they able to use some kind of electric speaker PA
10:41:06 15 system?

16 MR. HASTINGS: No, if it's something other
17 than a hand-held. Those are electrically operated, too --

18 THE COURT: If you've got a park that's some
19 distance from the Q, why would you restrict them?

10:41:18 20 MR. HASTINGS: Well, if it's in the restricted
21 zone, Your Honor, again, we are concerned about it
22 concealing an explosive device.

23 THE COURT: Well, say it's over by the park
24 immediately adjacent to city hall. That's one that could be
10:41:31 25 used, right?

1 MR. HASTINGS: That is Willard Park, and you
2 can apply for a permit for a public art or installation at
3 that park.

10:41:41

4 THE COURT: Are you allowed to give speeches
5 there?

6 MR. HASTINGS: You're allowed to give speeches
7 there. You're allowed to assemble there.

8 THE COURT: And are you allowed to have kind
9 of a PA system so you can speak to your followers?

10:41:49

10 MR. HASTINGS: You're allowed to have a
11 bullhorn, you're allowed to have a hand-held
12 battery-operated device. You are not allowed to have a
13 larger system.

10:41:59

14 THE COURT: Are you allowed to get a permit
15 to -- typically does the city allow permits for speeches in
16 those areas?

17 MR. HASTINGS: You don't need a permit to give
18 a speech in the city of Cleveland, Your Honor.

10:42:11

19 THE COURT: Okay. So say somebody wanted to
20 meet with fans who support the Indians drive to get a second
21 national championship within one year, and they wanted to
22 meet in Willard Park, and they wanted a PA system. Would
23 they be able to do that without getting a permit?

10:42:39

24 MR. HASTINGS: Not during the Republican
25 National Convention.

1 THE COURT: Well, I'm saying apart from the
2 Republican National Convention, could they?

3 MR. HASTINGS: Yeah -- well, these regulations
4 automatically expire, as Your Honor knows, when the
10:42:48 5 Republican National Convention is over. These regulations
6 are only for the Republican National Convention.

7 THE COURT: Well, during the convention though
8 could they go and obtaining a permit to use some kind of PA
9 system to speak to followers?

10:43:04 10 MR. HASTINGS: During the convention?

11 THE COURT: Right.

12 MR. HASTINGS: No; within the event zone, no.

13 THE COURT: And what's the governmental
14 interest in that?

10:43:10 15 MR. HASTINGS: The same as before. It's a
16 governmental interest in safety. But in addition --

17 THE COURT: How would that impact safety?

18 MR. HASTINGS: Again, a larger PA system with
19 speakers, amplifiers, platform boxes, all can contain
10:43:27 20 explosive devices. And there's another --

21 THE COURT: You're about five blocks away from
22 the Q.

23 MR. HASTINGS: Well, it's not just the Q we're
24 concerned about. That's actually right next door to city
10:43:37 25 hall, which will also be a secure zone, but not secured by

1 the Secret Service.

2 THE COURT: And let me go to the parade route.

3 So one of the questions we obviously look at is whether the
4 regulations add sufficiently equivalent alternative channels

10:44:09 5 for communications. The parade route, what are the hours
6 you give them?

7 MR. HASTINGS: They vary by day --

8 THE COURT: The first day is what, 2:00 to
9 5:00?

10:44:19 10 MR. HASTINGS: Yeah. I think it's 2:00 to
11 5:00, or 4:30 maybe.

12 THE COURT: So what's happening Monday, by the
13 way?

14 MR. HASTINGS: Monday, I believe the
10:44:27 15 convention will start very early. They have a lot of
16 business to do. The Rules Committee, they have to pass
17 rules, they have to seat delegates.

18 THE COURT: So you're allowed a parade on that
19 day up until 5:00?

10:44:41 20 MR. HASTINGS: 4:00 -- it is 4-something, I
21 believe, Your Honor.

22 THE COURT: Okay. So 4:00, and then the days
23 following that, what times do you allow parades?

24 MR. HASTINGS: Is it 10:00 to 2:00?

10:44:57 25 THE COURT: 10:00 to 1:00 is it?

1 MR. HASTINGS: I think it's 2:00 -- 9:00 to 1:
2 00, with the last parade ending at 2:00.

3 THE COURT: How effective is that as an
4 alternative?

10:45:09 5 MR. HASTINGS: Well, that is virtually
6 equivalent to every other national convention this country
7 has put on. They've also limited hours --

8 THE COURT: I'm just saying with regard to the
9 specifics here, is that an alternative to have a walk 9:00
10:45:27 10 a.m. to 1:00 p.m.?

11 MR. HASTINGS: An alternative --

12 THE COURT: How many convention delegates even
13 get up before 1:00 p.m.?

14 MR. HASTINGS: I don't know, Your Honor.

10:45:37 15 THE COURT: It's kind of a sad night's party
16 the night before if they are up before 1:00 p.m., right?

17 So but I mean, why the time limit? Why would you put
18 that for just such a narrow --

19 MR. HASTINGS: The time limit is very
10:45:54 20 important. There's a rush hour that happens before 9:00,
21 which makes it --

22 THE COURT: I don't think they are complaining
23 about the before 9:00, I think they were talking about most
24 of the delegates are going to be coming out in the
10:46:06 25 afternoon-evening. Why would you --

1 MR. HASTINGS: Right. After 2:00 --

2 THE COURT: Is that bridge going to be
3 generally open, by the way?

4 MR. HASTINGS: No. It will be closed totally
10:46:16 5 during the convention to vehicular traffic.

6 THE COURT: Well, then why did you just say
7 traffic is an issue?

8 MR. HASTINGS: Well, because West 25th is a
9 major artery in the city of Cleveland --

10:46:27 10 THE COURT: So are you going to allow cars
11 to -- say after 1:00, are cars going to be able to use
12 Carnegie-Lorain?

13 MR. HASTINGS: No.

14 THE COURT: Why is traffic an issue then?

10:46:40 15 MR. HASTINGS: Again, West 25th is the issue.
16 And as parades assemble, people, if there's a 5,000-person
17 parade, 5,000 people are going to descend on the
18 Lorain-Carnegie Bridge near West 25th Street. West 25th
19 Street is a major artery, north-south artery for the city of
10:47:00 20 Cleveland on the west side. The issue again is traffic
21 congestion there and access to Metro General Hospital.

22 THE COURT: So in terms of an alternative
23 channel for communication of the information --

24 MR. HASTINGS: All alternatives are open. If
10:47:15 25 they want to march back and forth on Prospect Avenue they

1 can do it without a permit.

2 THE COURT: But I'm talking about the parade
3 issue. So on the parade, you are not allowed to have a
4 parade on any other street, right, under the regulation?

10:47:28 5 MR. HASTINGS: The regulations do not regulate
6 parades so long as you use the sidewalks, or if you don't
7 block vehicular or pedestrian traffic. If you want to have
8 a parade on sidewalks in areas where there are vehicles,
9 you're allowed to do it and you don't need a permit.

10:47:43 10 If you want to have a parade on Prospect Avenue, which
11 will be closed to vehicular traffic, you're allowed to do it
12 and you don't need a permit. And Prospect Avenue in
13 particular is going to be one of the closest spots to the Q.

14 And again, this distinguishes Cleveland from other
10:48:06 15 cities where they've had national conventions which did
16 prohibit parades. In those cities, those regulations were
17 held to be constitutional. Cleveland has less regulation
18 than any of those cities.

19 THE COURT: This is the definition we're
10:48:36 20 talking about. So parade is any formation, march,
21 procession of any kind, or motorcade consisting of persons,
22 animals, or vehicles, traveling in unison for a common
23 purpose upon the streets, excluding sidewalks, within the
24 city that interferes with the normal flow or regulation of
10:49:09 25 vehicles or pedestrian traffic.

1 So if you had 200 people, you know, or more, you're
2 saying it would be okay for them to go down a sidewalk?

3 MR. HASTINGS: Yes.

4 THE COURT: Is it likely that they would not
10:49:32 5 be interfering with the normal flows of pedestrian traffic
6 upon that sidewalk?

7 MR. HASTINGS: Well, I don't know how likely
8 or unlikely it is, Your Honor, but again, if they choose to
9 obey the law, they can easily accomplish what they want to
10:49:49 10 do.

11 THE COURT: Okay. Let me go back once again
12 to the issue of whether it's, you know, an ample alternative
13 channel, the parade issue. What's the typical purpose of
14 these political parades?

10:50:16 15 MR. HASTINGS: I think the purposes vary
16 widely, Your Honor. Some are in support of the candidates,
17 some are against the candidate; some are in support of a
18 particular issue, some are against that very issue.

19 Some are -- I mean, the city of Cleveland has parades
10:50:35 20 from everyone from the Ku Klux Klan to Black Lives Matter.
21 I mean, every parade has its own theme.

22 THE COURT: So in putting them on a bridge
23 that's roughly a mile long, I mean, is that an ample
24 alternative, putting them on a bridge? Is news media on
10:51:01 25 either side of the bridge or --

1 MR. HASTINGS: Yes. And there's a spot -- I
2 don't have the map right in front of me, the Eagle Street
3 Bridge extension, that there used to be a bridge across the
4 river on Eagle Street, that bridge is long gone, but there's
10:51:15 5 actually a little remnant of it left. I say little, but
6 it's actually a fairly large concrete plaza. It's right
7 next to that triangle area. Again, that will be available
8 to the public. They can come in there and protest if they
9 want. Eight or nine thousand people can fit in there.

10:51:32 10 THE COURT: What I meant -- so that's at the
11 end of the bridge, right?

12 MR. HASTINGS: Yes. The bridges themselves, I
13 guess I find it interesting --

14 THE COURT: The plaintiff in the case seems to
10:51:43 15 be making the argument that marching somebody across an
16 isolated bridge in many ways defeats the purpose of parades,
17 because an isolated bridge is, you know, over a river; you
18 almost guarantee you're not going to have any disinterested
19 people anywhere nearby that you could persuade or influence.

10:52:11 20 MR. HASTINGS: Your Honor, the opposite is
21 actually true. If you Google "bridge protests" --

22 THE COURT: It may be a good method to get rid
23 of some of the previous night's alcohol, but --

24 MR. HASTINGS: If you Google "bridge
10:52:24 25 protests," Your Honor, you'll discover I think it's ten

1 significant protests in New York City, the object of which
2 was the Brooklyn Bridge. The Bay Bridge in San Francisco is
3 a common target for protest marches. They want to go to the
4 Bay Bridge, it's a Bay Bridge protest. The Pettus Bridge in
10:52:44 5 Alabama, a famous bridge, continues to have significant
6 protests that walk across it, and that's the object of the
7 protest.

8 THE COURT: What's the likelihood that a
9 delegate would be in any kind of proximity to the marchers?

10:53:00 10 MR. HASTINGS: We believe it's going to be
11 very likely.

12 THE COURT: I'm sorry?

13 MR. HASTINGS: We believe it's not only -- we
14 believe it's very likely.

10:53:06 15 THE COURT: That they'll be there? And when
16 they finish the bridge -- once again, the hours of the
17 bridge walk are limited to before 1:00? 1:00 p.m. except
18 for the Monday?

19 MR. HASTINGS: Well, no, the last parade has
10:53:22 20 to start by 1:00 p.m. They actually have until 2:00 to
21 finish that parade.

22 THE COURT: Just curious, how long does it
23 take you to walk from West 25th to the staging area; you
24 know, to the triangle you just referenced?

10:53:41 25 MR. HASTINGS: Less than 15 minutes, Your

1 Honor.

2 THE COURT: Have you tried that?

3 MR. HASTINGS: Yes.

4 THE COURT: We'll recess and take you out

10:53:48 5 there --

6 MR. HASTINGS: I will not have to power walk,

7 Your Honor.

8 THE COURT: Okay. It takes 15 minutes. But I

9 think their argument is that in many ways the bridge is kind

10:53:59 10 of preaching it to the converted. The only people that are

11 going to --

12 MR. HASTINGS: The media will be there, Your

13 Honor. It is within sight and sound of the complex.

14 THE COURT: That is kind of a distance, isn't

10:54:12 15 it?

16 MR. HASTINGS: It will go right up against the

17 hard zone, as close as the Secret Service will let people

18 go.

19 THE COURT: It will go right up to basically

10:54:23 20 the 2016 national championship Indians baseball stadium,

21 right?

22 Getting up there, do we know where the delegates are

23 going to be coming into the Q?

24 MR. HASTINGS: We do not know precisely. We

10:54:44 25 know they have to come in somewhere.

1 THE COURT: Are there entrances close by where
2 the parade route ends?

3 MR. HASTINGS: I don't know the answer to
4 that, Your Honor. I know that busses will have to go by
10:54:56 5 that area. I know that the Lorain-Carnegie Bridge is
6 planned for --

7 THE COURT: What time do the sessions start?

8 MR. HASTINGS: I do not know that. I don't
9 know that that has been set yet.

10:55:08 10 THE COURT: I mean, aren't the sessions
11 generally late afternoon into evening?

12 MR. HASTINGS: On Tuesday through Thursday we
13 understand that to be the case. On Monday there's going to
14 be an early session.

10:55:18 15 THE COURT: So why did you limit it to a 1:00
16 p.m. finish or 1:30 finish?

17 MR. HASTINGS: It's a 2:00 finish. The reason
18 that is limited is that the bridge is needed by the Secret
19 Service. There are 350 delegate busses that have to be
10:55:39 20 staged and inspected as they come to the convention. That
21 is a minimum, we are told, three-hour process for the Secret
22 Service. They will look at every single bus. They will
23 have a team of -- there will be dogs, and everything else.

24 THE COURT: Going back to kind of the other
10:55:59 25 question on that though, why couldn't you have given them

1 Carnegie Avenue, kind of the similar route to what the
2 Cavaliers used yesterday?

3 MR. HASTINGS: Carnegie, if you read the Rowe
4 declaration, is going to be closed and part of the hard
10:56:18 5 zone.

6 THE COURT: Well, at the hard zone, but I'm
7 talking about east of the hard zone.

8 MR. HASTINGS: Oh. East of the hard zone,
9 Carnegie Avenue -- again, under the Eckart declaration
10:56:30 10 particularly and the Tomba declarations -- that is one of
11 the main routes to University Hospitals and the Cleveland
12 Clinic.

13 THE COURT: There are other routes.

14 MR. HASTINGS: And the major east-west artery.

10:56:42 15 THE COURT: What did you do yesterday?

16 MR. HASTINGS: What did I do yesterday?

17 Worked on this case, Your Honor.

18 THE COURT: I'm sorry?

19 MR. HASTINGS: Worked on this case.

10:56:49 20 THE COURT: No. What I meant was what did the
21 city do yesterday relative, because Carnegie was jammed,
22 right, because of the delay, for hours.

23 MR. HASTINGS: It was, Your Honor. And again,
24 comparatively, what I would characterize as almost
10:57:05 25 spontaneous, planned after one day celebration of happy

1 fans, is very, very different from the kind of people we
2 expect to come to Cleveland for the Republican National
3 Convention. We have seen what happens at other national
4 conventions. There are people who come there to do criminal
10:57:22 5 mischief. That's what they do.

6 THE COURT: Okay. I'm not sure that that
7 characterization -- it may be true, and it probably is
8 partially true, but it's probably partially true that there
9 are a fair number of people who were out on the streets
10:57:45 10 yesterday who were already drunk and out to do criminal
11 mischief, as well.

12 MR. HASTINGS: I believe that we had actually
13 very low incidences of arrests yesterday.

14 THE COURT: Okay. In reading the *Coakley*
10:57:59 15 case, how do you respond to Chief Justice Roberts' general
16 statement that shows that something narrowly tailored, it's
17 not enough to just show that it's more convenient for the
18 city or the state.

19 MR. HASTINGS: Well, again, we have extreme
10:58:21 20 public interest at stake here, and it is a balancing test.

21 THE COURT: Here's the language I'm referring
22 to. Roberts wrote, "To meet the requirement of narrow
23 tailoring the government must demonstrate that alternative
24 measures that burden substantially less speech would fail to
10:58:40 25 achieve the government's interest, not simply that the

1 chosen route is easier."

2 In the *Coakley* case, which involved protesting around
3 abortion clinics and efforts to in some ways impede people
4 from -- or persuade people not to get abortions, the Supreme
10:59:04 5 Court said that -- I think it was a 35 foot -- was that the
6 city couldn't support it or the state couldn't support it.

7 I mean, isn't Roberts telling us that the showing
8 you've got to make is quite substantial, that other
9 alternatives would fail to achieve the government's
10:59:29 10 interest?

11 MR. HASTINGS: Well, and we believe we have
12 shown that, Your Honor. We went street by street in the
13 declarations --

14 THE COURT: I mean, your discussion of getting
10:59:37 15 to University Hospitals, I mean, is that showing that it's
16 impossible for you or isn't that a showing that the
17 regulations you put in effect are easier?

18 MR. HASTINGS: I don't think Roberts says that
19 the governmental interest has to be impossible, it just has
11:00:01 20 to be substantial government interest in the other
21 alternative routes that are not acceptable, and there is a
22 substantial governmental interest.

23 THE COURT: Do you think that's what he said
24 in *Coakley*?

11:00:12 25 MR. HASTINGS: Yes, Your Honor. I don't

1 believe the Supreme Court would have reversed the Boston
2 convention, the New York convention, the Charlotte
3 convention, the Tampa convention, the St. Paul convention,
4 or the Denver convention.

11:01:28 5 THE COURT: This is Roberts' language. Isn't
6 he telling us that the prime objective of the First
7 Amendment is not efficiency?

8 MR. HASTINGS: I would agree with that, Your
9 Honor, but again, in the Cleveland case there is no line
11:02:24 10 preventing people from approaching the entrances that
11 delegates we know will use, either by bus or on foot. There
12 is no line that prevents them from getting as close to those
13 entrances. And as Roberts pointed, so long as they don't
14 obstruct it, they can get as close as they want. These
11:02:43 15 plaintiffs want to be further away for some reason. The
16 city has offered them Prospect Avenue, which will have -- we
17 believe somewhere is going to have an entrance on it.

18 THE COURT: I guess the argument I thought you
19 were making was Carnegie or one of these other parade routes
11:03:01 20 was not efficient for the city because it would impede the
21 access to --

22 MR. HASTINGS: That is --

23 THE COURT: -- the eastern hospitals.

24 MR. HASTINGS: That is a significant
11:03:12 25 government interest to have good access to the hospitals.

1 It's not just easier, it's a significant government
2 interest. Lives matter. Lives depend on whether
3 ambulances --

4 THE COURT: Why did you close down Carnegie
11:03:27 5 yesterday then?

6 MR. HASTINGS: Again, all routes radiating
7 from the central area of Carnegie were available. If
8 someone was hurt on Carnegie, the rest of Carnegie was
9 completely open to transport them to a hospital.

11:03:40 10 THE COURT: Okay. Let me give counsel for the
11 plaintiff an opportunity to respond to some of this.

12 MR. HASTINGS: Thank you, Your Honor.

13 MS. LEVENSON: Thank you, Judge.

14 Compared to yesterday, the convention is -- what we're
11:04:11 15 asking for is really a no-brainer. Yesterday was a
16 free-for-all, and the city was okay with it.

17 We're asking for permits for additional opportunities
18 for permitted activity, for more parades, for more public
19 space availability. Security militates in favor of
11:04:28 20 permitting more assemblies, permitting more locations for
21 assemblies, permitting more parks. This would avoid
22 disorderly parades and disorderly assemblies.

23 THE COURT: Let me interrupt you there for a
24 second, because I wanted to ask either Ms. Brown or counsel
11:04:49 25 for the city, you probably saw the same news story I saw

1 yesterday from the *Times*, the *New York Times*, discussing
2 these parade route issues. At least they reported that
3 there's a fair number of people who are saying regulations
4 be damned, we're going to march anyways. And I can't recall
11:05:20 5 who was -- you know, they weren't obviously plaintiffs in
6 this case, but I guess the question becomes by unduly
7 restricting parades to the Carnegie Bridge or unduly
8 limiting that, are you almost inviting more problems?

9 MS. BROWN: Your Honor, I think that what's
11:05:46 10 lost in all of this is, you're right, we are not limiting
11 speech in any way. The reality is all of these fit
12 together, right? It's not just if you look at one isolated
13 street you can say, yes, it's easy to just allow a parade on
14 this street, but what the city --

11:06:02 15 THE COURT: I think her point though had been
16 that if you have permitting it's easier to control than if
17 you just have 400 people crowd a sidewalk and start spilling
18 over into the street in a way that actually does probably
19 create danger to pedestrians or traffic. Isn't it better to
11:06:28 20 get ahead of that by some kind of limitation rather than
21 just simply letting people crowd sidewalks? And I suppose
22 the city is then in the situation where the police need to
23 keep the sidewalks open, so they then get into, you know,
24 all kinds of arrests associated with people who say we were
11:06:54 25 just walking down the sidewalk; the problem being that

1 there's 300 of us, and there's not enough room on the
2 sidewalk.

3 MS. BROWN: Well, by creating -- one, we're
4 trying to do as limited regulation as possible, so we
11:07:11 5 created the official parade route. As we've repeated,
6 there's not going to be any limitations on speech within the
7 event zone. People are free to say whatever they want. If
8 they want to walk on the sidewalks, they can do that.

9 Prospect, Your Honor, which is right across from the
11:07:27 10 Q, is going to have no vehicular traffic. They are free to
11 march up and down the streets. There's not going to be any
12 impediments to that, and they're going to be as close to the
13 hard zone as they can possibly get.

14 We're not sure what else we can do to satisfy the
11:07:45 15 ACLU. We can't start picking apart streets because, quite
16 honestly, we have to be concerned about the worst case
17 scenario. We have to be concerned about access to Level 1
18 trauma hospitals. We have to be concerned about the
19 police's ability to use finite resources.

11:08:02 20 THE COURT: Wouldn't the worst case scenario
21 more likely be that you get two antagonistic groups both
22 marching down Prospect because neither of them have been
23 given a parade permit? And wouldn't the more likely problem
24 be that they then get into some conflict because you weren't
11:08:28 25 regulating? So say you have 300 associated with one group,

1 antagonistic to another, both are marching down the same
2 street. Isn't there a greater danger?

3 MS. BROWN: Well, we're not regulating
4 content, so that could occur anyway. People -- even if we
11:08:50 5 gave some permit to march on other streets, people can
6 gather inside the event zone who have different political
7 views. And those people, if they get into a confrontation
8 we will have safety forces there to deal with that. We're
9 not regulating content, we're not saying who has the right
11:09:07 10 to occupy any piece of ground. We created an official
11 parade route where media will be, where at its end it will
12 come directly across from the event complex. There will be
13 delegates walking to and from that area.

14 THE COURT: You're talking about Prospect?

11:09:26 15 MS. BROWN: I'm talking about the Carnegie
16 Bridge and Prospect.

17 THE COURT: And how many --

18 MS. BROWN: The delegates --

19 THE COURT: How many delegates are going to
11:09:36 20 come in on Ontario or come from the west on Carnegie?

21 MR. HASTINGS: As I understand it, there will
22 be over 300 busses dropping delegates off. There will be
23 activities going on at Progressive Field. There will be
24 delegates walking in and around that area. They're staying
11:09:54 25 in hotels around the area.

1 THE COURT: Yeah, but at 1:00 in the afternoon
2 or 2:00?

3 MS. BROWN: Judge, I don't know what their
4 party habits will be, but they will have the ability to
11:10:05 5 march -- or walk around that area, and there will be daytime
6 activities, as I understand it.

7 THE COURT: Yeah, but in terms of the ability
8 to be heard by the intended audience, isn't the time limit
9 going to severely limit that?

11:10:26 10 MS. BROWN: I don't believe so, Your Honor.
11 The media is going to be there, there's going to be 15,000
12 credentialed media.

13 THE COURT: Have you been to political
14 conventions?

11:10:36 15 MS. BROWN: Yes.

16 THE COURT: Put her under oath.

17 MR. HASTINGS: And again, Your Honor, if they
18 want to be there when the delegates are entering, they can.
19 There's no regulation. The arguing for more regulation does
11:10:50 20 not help the First Amendment. We have less regulation. If
21 they want to be there at 3:00 in the afternoon, 4:00 in the
22 afternoon, 5:00 in the afternoon, 6:00 in the afternoon,
23 they can gather on Prospect. They can gather on the
24 sidewalk at East 9th, which is also right across from
11:11:08 25 Progressive Field. They can gather in that triangular area,

1 which we believe will be very close to the area where
2 delegates are dropped on and off of busses. They can be
3 anywhere they find an entrance for a bus or a pedestrian
4 entrance for a delegate, they can be in those spots anytime
11:11:24 5 they want.

6 THE COURT: Okay. Although I'm still not
7 sure, you know, you seem to limit though the ability of
8 people under the definition of "parade" to do it jointly.

9 MS. LEVENSON: Yes, Your Honor. We see it
11:11:43 10 that way, as well. We're not looking for -- our clients are
11 not looking for encounters with safety forces. Our clients
12 want planful orderly parades.

13 I don't know if Organize Ohio is here, so I can
14 probably say this, but some of them are groups of aging
11:12:03 15 hippies walking on their arthritic knees, and they want to
16 march in a safe and orderly fashion. And there is no
17 opportunity under the scheme that the city has enacted to do
18 that.

19 Again, security and safety militate in favor of
11:12:21 20 permitting opportunities for lawful assemblies.

21 MR. HASTINGS: And Your Honor, the term
22 "parade" is only defined as something that blocks a street
23 that has vehicular traffic on it. By definition, under our
24 definition under these regulations, a parade on Prospect
11:12:38 25 Avenue is not a parade under these regulations. A parade

1 that goes on the sidewalk is not a parade under these
2 regulations.

3 They, as many as possible, can gather. And again, I
4 would think that if you string out a parade, you know, of
11:12:53 5 300 people occupying 50 feet because they're all next to
6 each other makes less of a statement than stringing them out
7 over three blocks, and people see the message come by over
8 and over and over again as they walk.

9 THE COURT: Okay. Are they allowed to -- but
11:13:08 10 they're not allowed to have any kind of -- hand-held
11 megaphones, but nothing else, or battery-operated
12 megaphones?

13 MR. HASTINGS: They can have hand-held
14 megaphones, battery-operated implication. Again, they can't
11:13:23 15 have, again, a structure for purposes of amplification.

16 MS. LEVENSON: There are certainly logistical
17 difficulties, impossibilities, about 5,000 people attempting
18 to march in a concerted fashion on a sidewalk. As Your
19 Honor has searched for some kind of nexus between the scope
11:13:42 20 of the security zone, the event zone, excuse me, the event
21 zone and security, there is none.

22 The 3.5 square mile zone doesn't keep us safe from
23 terrorism. I think that's evidenced by other host cities
24 post 9/11 who have dealt with the issue and have
11:14:12 25 created -- or decided not even to bother to create an event

1 zone. Of the ones that have -- most haven't -- ours is
2 historically unprecedented by a very significant factor.
3 And the second largest one, which was less than
4 three-quarters the size of the one proposed by Cleveland,
11:14:33 5 wasn't challenged in Court, so we don't even know whether
6 that would have been held up. There's no nexus between the
7 size of the zone, the restrictions within it, and security.

8 With regard to the point that Your Honor made about
9 the 200 marchers attempting to walk on sidewalks, there are
11:14:52 10 no opportunities for concerted activity. The parade
11 opportunity is the sole one permitted. This 50 minutes on
12 the bridge is meager, it is not sufficient, much less ample
13 substitute for all the opportunities that have been
14 eviscerated, annihilated by the rules.

11:15:19 15 Only 18 slots are available for the entire duration of
16 the convention, and if a 19th applicant seeks a slot, the
17 city says he will be denied because there's 18 short parade
18 slots provided. And our clients, as I've stated, don't find
19 this opportunity adequate. They've proposed several
11:15:38 20 alternative routes after being informed of the streets that
21 the city claims to justify as unavailable.

22 Many planned First Amendment exercisers at the
23 convention have dubbed the bridge "the bridge to nowhere"
24 because although the city plays sort of a sleight of hand by
11:16:00 25 saying that it approaches the back of the Gateway complex,

1 the Gateway complex is not where the convention takes place.
2 The convention takes place at the Q, which is the basketball
3 stadium, not the baseball field.

4 The points, the distance measured by the city, and the
11:16:22 5 view is towards the baseball field, it's a decoy. That's
6 not where the delegates are and it's not when the delegates
7 will be there.

8 So the bridge does not serve the purpose for the
9 marchers, especially given the limited opportunities for the
11:16:41 10 undesirable location.

11 THE COURT: Okay.

12 MS. LEVENSON: Just lastly, to sum up, the
13 event zone, sometimes I think about it as the event horizon
14 because it's a black hole for First Amendment activities.
11:16:55 15 The size of it and the extent of the activities permitted in
16 it put together cannot be justified for security or for
17 traffic purposes.

18 And I would add one more thing about traffic, and that
19 is Cleveland worked very hard to obtain the right to host
11:17:18 20 this event, and has been planning it for two years, and it's
21 had the opportunity to consider traffic in looking to host
22 the event and in planning it. In this planning it can't put
23 the First Amendment on the back burner. The right of the
24 populous to participate and exercise their First Amendment
11:17:37 25 rights is a factor that can't be denied.

1 Thank you very much, Judge.

2 THE COURT: And I'd ask if you have just any
3 concluding comments, Mr. Hastings or Ms. Brown.

4 MR. HASTINGS: Yes. I will respond to the
11:17:53 5 latest comments, and then conclusory statement.

6 She indicated that sidewalks are not large enough for
7 a parade as large as even 5,000. I have attended many
8 Indians games where 30,000 people leave Progressive Field,
9 stay on the sidewalk; East 9th Street is not walked upon,
11:18:12 10 and they all get home in less -- they all leave the area in
11 less than an hour.

12 Our sidewalks can handle large groups of people, and
13 it is very possible if they plan it right to have a parade
14 wherever they want with the exclusion of secure zones, and
11:18:30 15 there are a good number of them.

16 She talks about the size of the event zone, and if you
17 read the declarations carefully, all four corners of the
18 event zone are covered by significant safety assets. The
19 southeast corner of the event zone contains Cleveland State,
11:18:47 20 which is going to house a significant number of the visiting
21 police officers in the dormitories. That's also a target
22 for protesters, that's also a target for criminal protesters
23 who want to do injury to the police.

24 The northeast area of the event zone is going to be a
11:19:04 25 staging area along Lakeside Avenue for extra ambulances and

1 extra rescue vehicles for the fire department, extra safety
2 resources that can then swoop down where they are needed in
3 the event of an incident. That area has to be kept clear,
4 it has to be kept secure.

11:19:24 5 Twenty-first and Payne is going to be a secure zone
6 around the old Third District police station. There's going
7 to be a fence all the way around it. Payne Avenue is going
8 to be closed there. That's near the eastern border of the
9 event zone.

11:19:37 10 The southern border of the event zone is defined by
11 the parade route itself. It's very important that that area
12 be kept as secure as possible, that large backpacks like
13 used at the Boston Marathon bombing, that coolers, that
14 things that are likely that we know that people will bring
11:19:56 15 in likely to cause injury, for the public safety in that
16 area.

17 The western edge of the event zone is defined by West
18 25th Street, which is the beginning staging area for the
19 parade route, and again a traditional boundary.

11:20:12 20 The northern edge of the event zone is defined by the
21 lake. On Sunday night Voinovich Park is going to be used by
22 the Republican National Convention for the opening ceremony
23 or festivities, and that is also going to be part of the
24 secure zone during that period.

11:20:27 25 THE COURT: Why Voinovich Park? Because that

1 seems like it would have been an alternative. Apart from
2 the Sunday night, why wouldn't that have been a logical
3 place?

4 MR. HASTINGS: The Committee on Arrangements
11:20:39 5 has indicated that they want Voinovich Park for the whole
6 RNC. They have programming planned there.

7 I don't know if I'm the only one --

8 THE COURT: It sounded like the opening
9 reception, but what else?

11:20:50 10 MR. HASTINGS: I believe they have
11 entertainment planned that whole week for that area, but
12 they're not in this case, so I don't know.

13 THE COURT: Well, presumptively the
14 entertainment would be at night, right?

11:21:03 15 MR. HASTINGS: I believe they plan to use it
16 all day. I mean, that's what we've been told, but in terms
17 of representing to the Court, I don't really know. I
18 certainly couldn't testify to it.

19 But the important thing is they contracted for it when
11:21:22 20 the city was awarded the public and national convention, and
21 they have it. And it's also -- I mean, it's an odd irony in
22 this case that one of the three discrete plaintiffs in this
23 case, Citizens for Trump, not Citizens against Trump, can't
24 seem to get the Committee on Arrangements to give them
11:21:39 25 Voinovich Park. That's the obvious entity that they should

1 be approaching. It would seem that if anybody could get the
2 Committee on Arrangements to give up Voinovich Park it might
3 be Citizens for Trump.

4 THE COURT: That will probably depend on what
11:21:54 5 the Rules Committee does, right?

6 MR. HASTINGS: Well, yeah. It is an
7 interesting political season. But so it's odd, they called
8 the bridge "the bridge to nowhere," actually it's the bridge
9 to the convention. The bridge goes right at the convention.
11:22:13 10 As you cross the bridge, you can be looking at the
11 convention for the vast majority of its ride. This is way
12 superior to the official parade routes in other cities that
13 only got to see a sliver of the convention hall.

14 And the convention, people in the convention, and
11:22:30 15 Progressive itself, the field is going to be very important
16 particularly during the times of the parade marches.
17 Progressive Field is for caucus meetings, delegate meetings,
18 entertainment for the delegates for times when the
19 convention itself is not going on in the Q. Progressive
11:22:45 20 Field, I submit to Your Honor, may be more likely to have
21 delegates in it at the time of these parades than the Q
22 itself.

23 They talk about the fact that the city had all these
24 years to plan, and that's true. If you read the
11:23:02 25 declarations carefully, there are real security reasons why

1 a lot of these things are not announced before they are.

2 There's a reason that Congress chose to create the

3 designation national special security event and have the

4 Secret Service take responsibility for securing it.

11:23:22 5 Congress is aware and the law is aware that these national

6 special security events are high profile targets. They are

7 the kind of area where we need to be extra careful, have

8 extra planning. And if you read the Tomba declaration,

9 there's a reason we don't tell everybody every detail of the

11:23:43 10 security plan way prior to the convention. That allows

11 people who wish to do evil more time to plan.

12 Just as a general on the battlefield doesn't send a

13 message to the other general where all his forces are going

14 to be, the security people in Cleveland and the people

11:24:01 15 responsible for securing Cleveland have a plan. It will be

16 disclosed, but they don't want to disclose it early.

17

18

19

20

21

22

23

24

25

1 THE COURT: Okay. Thank you.

2 I appreciate the comments from everybody, but at this
3 point in time, and out of some concern for the timeline that
4 we're dealing with, I am going to grant the plaintiffs'
11:24:30 5 motion for a preliminary injunction.

6 In doing that, I do find that the city has a
7 legitimate interest in a number of the governmental
8 interests expressed. I think the city obviously has a
9 legitimate interest in the security issue, although
11:24:51 10 especially the event zone does not seem to be particularly
11 tailored to the security issue. It seems that there's very
12 limited direct connection with the security issues. The
13 hard zone or the central zone obviously has much more, but
14 that's not what we're here on.

11:25:16 15 I think the city also has a legitimate interest in
16 providing for public safety, patient access, and
17 unobstructed uses of roads and highways. I think the city
18 is correct about that, but under the First Amendment -- and
19 I do find this to be a content-neutral regulation, but under
11:25:44 20 the First Amendment, I do find that the city has not
21 sufficiently narrowly drawn the regulation to serve a
22 significant governmental interest.

23 Once again, I think there are governmental interest in
24 keeping the public able to move throughout this area and
11:26:11 25 significant governmental interest in the security issue, but

1 I think the regulations you've come up with are not
2 sufficiently narrowly drawn. And I really am guided in this
3 by the Supreme Court's opinion in the Massachusetts abortion
4 access case, where Chief Justice Roberts writing for the
11:26:38 5 Court dealt with the issue of the sufficient correlation
6 between the governmental interest and the restrictions, and
7 found that the government must demonstrate that the
8 alternative measures that burden substantially less would
9 fail to achieve the government's interest. The government
11:27:04 10 must not simply show that the government's chosen route is
11 the easier one.

12 The major problems I think with the government's
13 regulation or the city's regulation is, first of all, the
14 size of the secure zone. I think it's unduly large, so I
11:27:32 15 think that is unconstitutional. I think secondarily, the
16 parade route question, the government has not given a
17 sufficient alternative.

18 The use of this bridge, and especially the use of the
19 bridge over the hours restricted, is not a sufficient
11:27:57 20 alternative to the typical parade routes that the city makes
21 available. I believe there are likely other parade routes
22 and other time periods that would satisfy this, and I don't
23 mean to suggest that the city can't control the time and the
24 parade routes, but I think the restriction to this
11:28:27 25 Lorain-Carnegie Bridge at times when delegates are almost

1 invariably not going to be present is an insufficient
2 opportunity for First Amendment purposes.

3 I also believe there are constitutional problems with
4 the use of the parks, and more specifically, while I think
11:28:51 5 the city has the power to apportion the use of parks as
6 among various applying groups, I think the city's
7 restriction of that to one speaker in Public Square together
8 with kind of *ad hoc* use of other parks is insufficient.

9 So with regard to that, I think the plaintiff has come
11:29:22 10 forward with viable evidence suggesting a violation of
11 constitutional rights, and the defendant has failed to
12 establish a sufficient governmental purpose, so I find the
13 regulation in those regards to be unconstitutional.

14 What I would do, and I will put an order on to that
11:29:49 15 effect, but I think the city is now in a position where it
16 can seek to amend the regulation, narrow it in some fashion.
17 And I would encourage that it might well make sense to have
18 some consultation with the plaintiffs in this case. You're
19 certainly free to amend it as you might wish and take
11:30:15 20 another chance with it, but I think given the limitation on
21 the time before the convention begins, I think you might be
22 well served to at least consult with them about
23 alternatives. Ultimately the city would have to make its
24 own determination on the regulations, but I think to
11:30:44 25 shortcut another challenge, there may be some benefit to

1 that.

2 So I'll enter an order to that extent. I'll try to
3 get an opinion out on it, because it's an interesting
4 question. And I know that both sides are operating under
11:31:05 5 some time constraints, but I wanted to reflect on the
6 sentiment that I have.

7 The order itself would become the judgment. The Court
8 speaks through its journal, and I'll try to turn that
9 around, but I wanted to give the parties a preview.

11:31:29 10 And I was going to finally just indicate that I want
11 to extend appreciation to the parties on both sides of this.
12 I think the attorneys for both sides have been very, very
13 helpful in assisting me in understanding the respective
14 positions. You both have done an extremely good job on
11:31:53 15 behalf of your respective clients in an area that you are
16 obviously operating under some extreme time constraints.

17 And so I would express the Court's appreciation to
18 counsel, the counsel that have been involved with this, for
19 your help in trying to understand your respective positions.

11:32:20 20 MS. LEVENSON: Your Honor, may I mention one
21 other thing. And that is in our Count 4 we had raised the
22 issue of the impact of these regulations on the homeless.

23 THE COURT: I thought that had been withdrawn.

24 MS. LEVENSON: It hasn't been withdrawn, Your
11:32:34 25 Honor. The city has conceded in their brief that they will

1 not enforce the regulations against the homeless, and we're
2 very thankful for that. We do though still seek an order
3 simply to ensure that the law enforcement officers who will
4 enforce these regulations will have guidance so that they
11:32:58 5 know not to -- especially because regular Cleveland Police
6 are going to be assisted by thousands of contracted law
7 enforcement officers from other agencies, so an order to the
8 effect memorializing the city's agreement would be extremely
9 helpful.

11:33:20 10 MR. HASTINGS: Your Honor, an order is not
11 necessary. Prior to this lawsuit and had nothing to do with
12 the ACLU, the police had already made an arrangement with a
13 representative for the homeless, not the one who is the
14 plaintiff in this case, that Cleveland's homeless will be
11:33:38 15 identified, and they will be -- I don't want to say what
16 they'll be wearing, but they'll be wearing something that
17 identifies them as the Cleveland homeless. And we all
18 considered them as residents.

19 We indicated that to the ACLU even before this
11:33:55 20 lawsuit. The declaration in this lawsuit acknowledges that.
21 There's no need for an order.

22 THE COURT: Okay. I'll take that under
23 advisement. Because the regulations are going to have to be
24 redrawn, what I would ask is whether the city would consider
11:34:17 25 setting out what you've just said with regard to that

1 somewhat more clearly in the whatever ordinance or
2 regulation the city chooses to adopt.

3 I'm sorry, you were getting up to say something?

4 MR. SINGLETARY: Your Honor, Gary Singletary
11:34:41 5 with the city of Cleveland. Understanding your order that
6 you're going to be putting on, is it my understanding that
7 you have now negated the event zone as it's drawn up by the
8 city?

9 THE COURT: Right.

11:34:55 10 MR. SINGLETARY: For purposes of a potential
11 appeal of your order, are you disregarding or are you
12 questioning facts associated with the declarations and
13 affidavits that were put before the Court?

14 THE COURT: I have read those, and some of
11:35:11 15 them I found believable, some of them I found not
16 believable; some of the statements I didn't find believable
17 and some I did. So I'm not sure what you're asking.

18 MR. SINGLETARY: Well, I'm asking Your Honor
19 for the basis, if in your opinion when you issue your order
11:35:27 20 if you're going to be giving us guidelines with regards to
21 what you find unbelievable or believable with regards to the
22 appeal of your order and proceeding in this matter.

23 THE COURT: What does that mean? What does
24 that mean?

11:35:47 25 MR. SINGLETARY: Well, Your Honor, the Court

1 of Appeals is looking at facts as they're established --

2 THE COURT: You know, I've been writing
3 opinions longer than you probably have been practicing law.

4 MR. SINGLETARY: I understand.

11:35:59 5 THE COURT: So I'm not sure specifically what
6 you're asking, but I'll set out the grounds for the order.

7 MR. SINGLETARY: My question generally, Your
8 Honor, dealt with the event zone itself, which has
9 prescribed boundaries, and the reasons for those boundaries
11:36:19 10 were made in the declarations with regards to -- I guess I'm
11 asking for if you're going to be specific with regards to
12 why I-90 or the area where the ambulances are associated or
13 where the 2,000 police that are coming in from out of town,
14 why East 26th is specifically found to be unacceptable to
11:36:45 15 the Court, as opposed to just a general order saying it's
16 too big.

17 THE COURT: Okay. We'll adjourn.

18 I wanted to speak with counsel off the record for a
19 minute, so we'll stand adjourned at this time.

11:37:06 20 - - - - -

21 (Proceedings adjourned at 11:37 a.m.)

22 C E R T I F I C A T E

23 I certify that the foregoing is a correct transcript
24 from the record of proceedings in the above-entitled matter.

24 s/Heidi Blueskye Geizer June 23, 2016

25 Heidi Blueskye Geizer, RMR, CRR Date