

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA** )  
)  
v. ) **No. 1:21-cr-28-12 (APM)**  
)  
**JOSHUA JAMES,** )  
)  
**Defendant.** )

**GOVERNMENT’S MOTION TO  
REOPEN THE DEFENDANT’S DETENTION HEARING**

On April 9, 2021, the Court considered the decision of whether to detain the defendant pending trial a “close call” and ultimately released him, noting in part the lack of evidence that the defendant had engaged in any violence on January 6. This week, the government discovered video evidence showing the defendant assaulting law-enforcement officers inside the Capitol building while screaming “Get out of my Capitol! This is my fucking building!” This evidence has a material bearing on the Court’s decision as to whether there are conditions that can assure the safety of the community, thereby warranting reopening the defendant’s detention hearing pursuant to 18 U.S.C. § 3142(f)(2)(B). The defendant should be detained pending trial.

**I. Background**

On April 6, 2021, the defendant filed a motion for bond review after a United States Magistrate Judge in the Northern District of Alabama detained the defendant pending trial. The government opposed the defendant’s motion for release in a filing on April 8, arguing that the defendant’s coordination with co-defendants, leadership in the January 6 operation, involvement in planning an armed “quick reaction force” (QRF), and obstructive actions all warranted pretrial detention. On April 9, 2021, the Court heard arguments from both parties.

First, the Court concluded the defendant presented a serious risk of obstruction of justice, warranting a detention hearing under 18 U.S.C. § 3142(f)(2)(B). The defendant appeared to delete evidence himself, and he instructed other individuals involved in the January 6 operation to “delete[] and burn[]” communications as a precaution.

Second, the Court held the detention hearing and ultimately released the defendant. In its decision, the Court noted that whether to detain the defendant pending trial was a “close call.” In fact, the Court found that the defendant was dangerous but concluded there was a combination of conditions that could reasonably assure the safety of the defendant’s community moving forward. The Court based its conclusion, in part, on the fact that the government did not present evidence that the defendant engaged in or planned any violence, such as assaulting law-enforcement officers, citing *United States v. Munchel*, No. 21-3010, 2021 WL 1149196, at \*8 (D.C. Cir. Mar. 26, 2021).

## **II. Argument**

The government has now discovered evidence that the defendant assaulted multiple law enforcement officers after storming inside the Capitol building. The evidence includes a video from the defendant’s phone and body-worn camera footage from two law-enforcement officers involved in the confrontation with the defendant—all of which the government has provided to the defendant and to the Court as Exhibit One to the government’s motion.<sup>1</sup>

On January 6, 2021, the defendant, co-defendant Roberto Minuta, and others traveled to the Capitol building together and forced their way inside. The defendant and Minuta both pushed

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<sup>1</sup> The pertinent video files include (1) a video from the defendant’s phone (“signal-2021-01-07-090235”), (2) body-worn camera footage from a Metropolitan Police Department (MPD) Officer (“MPD Officer Body-Worn Camera Footage 1”), and (3) body-worn camera footage from an MPD Officer (“MPD Officer Body-Worn Camera Footage 2”). Those three videos are described below and are being provided to the Court on a disc as Exhibit One.

past officers who had placed their hands on James's and Minuta's chests in an apparent attempt to stop them from entering. The newly-discovered evidence sheds light on the defendant's violent conduct while inside and belies any notion that the defendants merely operated as a security detail in aid of law enforcement on January 6.

In a video that appears to have been recorded by Minuta,<sup>2</sup> the defendant can be seen engaging in a confrontation with a line of law-enforcement officers forming a barrier between the lobby and the Capitol Rotunda. The officers are surrounded by rioters both in front of them in the lobby, and behind them in the Rotunda. The defendant, standing in the lobby, yells "let's go!" grabs the shoulder of another individual, and pulls that individual out of the Rotunda and into the lobby. Standing behind the defendant with the camera, Minuta yells, "This is what's bound to happen, just get out! Get out! Get these cops out! It's our fucking building! Get 'em out, get out!"

As Minuta yells, the defendant turns back to the line of officers clad in riot gear. Other rioters begin yelling, "Pull the cops out! Pull 'em out!" The defendant yells, "You want out!?" and forcefully grabs an officer by the arm. The officer straightens his arm and grabs the defendant's shoulder, but the defendant yanks the officer toward the lobby and rioters. The defendant is seen in the below screenshot with his Oath Keepers patch circled in red as he pulls the officer out of formation toward the exit.

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<sup>2</sup> The video appears to be recorded by co-defendant Minuta based on the positioning of the camera behind the defendant (where Minuta was standing as seen on Capitol surveillance footage); the voice of the individual who appears to be holding the camera when compared to other videos depicting Minuta yelling at law-enforcement officers on January 6, 2021; and the attire of the individual holding the camera, as seen at about 41 seconds into the video, including goggles and gloves that appear to match what Minuta was seen wearing that day.



A screenshot of the officer's body-worn camera footage provides another angle of the confrontation, clearly showing the defendant's face.



The video further shows surrounding officers having to force the defendant to stop pulling the officer before managing to push the defendant away. The defendant responds by approaching the officers again and grabbing another officer by both shoulders. The defendant, while aggressively yanking the officer toward the Rotunda exit, starts screaming, “Get out of my Capitol! Get out! Get out of my Capitol!” The officer breaks out of the defendant’s grip, but the defendant tries again to grab the officer’s shoulders and tugs the officer toward the lobby. Then the defendant grabs a separate officer’s hand and shield before pulling them both toward the lobby. The officer grabs the shield with both hands to prevent the defendant and others from stealing it. Nearby rioters join the defendant, and the group successfully rips the shield out of the officer’s hands, causing the defendant to fall backwards. Below is a screenshot from the officer’s body-worn

camera footage, showing the defendant in the upper-right corner with his gloved-hand (circled in red) grabbing the shield and the officer's hands pulling the shield away from the defendant and other rioters.



The defendant then starts jumping and thrashing over other rioters toward the officers, yelling “This is my fucking building! This is not yours! This is my Capitol!” Capitol surveillance footage then appears to show the rioters behind the defendant, including Minuta, surging forward into the Rotunda, pinning the defendant against the officers. The defendant continues to scream, “This is my building!” A screenshot from an officer’s body-worn camera footage depicts the moment the defendant throws his body against a law-enforcement officer and yells, “This is my Capitol!”



The officers collectively push back against the defendant and other rioters to prevent them from entering the Rotunda. A struggle ensues among the defendant, other rioters, and the group of officers, after which the defendant breaches the Rotunda. At least one officer aims OC spray specifically at the defendant after the defendant's physical confrontation with the officers. Multiple officers push the defendant from behind, getting him to exit the Rotunda. Rubbing his eyes and face after being sprayed, the defendant then retreats into the lobby and eventually exits the Capitol.

### **III. Conclusion**

On January 6, the defendant tried to violently take over the Capitol. In his own words, the Capitol was "his fucking building." Law-enforcement tactics were no deterrent: he swerved around marked-vehicle blockades as he rushed to the Capitol, pushed past an officer as he stormed inside, and physically assaulted riot officers in an attempt to get them "out of [his] Capitol." Law

enforcement had to pepper spray the defendant and push him before he finally exited. No condition or combination of conditions can reasonably assure the safety of the community, and the defendant should be detained pending trial.

Respectfully submitted,

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