

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
 v.) No. 21-cr-509 (TSC)
 ANTONY VO,)
)
 Defendant)
 _____)

NOTICE OF FILING

Antony Vo, through his attorneys, files the attached letter in order for it to be made part of the record.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

/s/
Eugene Ohm
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FEDERAL PUBLIC DEFENDER
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FEDERAL PUBLIC DEFENDER
A.J. KRAMER

September 15, 2023

Lynette Wagner
Eric Boylan
Assistant U.S. Attorneys
601 D St NW
Washington D.C. 20053
Re: United States v. Antony Vo, 21-cr-509 (TSC)

Dear Counsel:

We are writing to request information in the possession of law enforcement under *Brady v. Maryland*, Local Rule 5.1 and the Due Process Protections Act. These are follow-up requests from your disclosures made earlier today, on September 15, 2023 and your Jencks production on September 11, 2023.

Based upon the case specific discovery that you have provided and the arguments you have made in pleadings (*e.g.*, ECF No. 68) and in court, we have been under the apparently false impression that the government possessed no evidence to corroborate Mr. Vo's statements that he was "let in" to the Capitol building by police officers. Based on your productions from September 11th and today, it is now clear that during the very time period that Mr. Vo entered the Capitol, at least one officer made at least one statement that could fairly be interpreted as permission to enter the Capitol building. We are thus making the following *Brady* requests and hope that you can respond quickly because we are not intending to seek a continuance of trial.

Today, you produced redacted copies of a U.S. Capitol Police Report of Investigation, OPR #21-006B. This was in response to our request for an unredacted copy of U.S. Capitol Police Report of Investigation, OPR #21-006A. These reports detail officers' actions at the Upper West Terrace door (the door through which Mr. Vo entered) between approximately 2:27 pm to 2:45 pm (the time period during which Mr. Vo entered). Specifically, the Capitol Police officers were investigated for "Unsatisfactory Performance" because they either allowed protestors to enter the Upper West Terrace door during this time period, or made statements to protestors that could be reasonably interpreted as permission to enter.

First, we are reiterating requests made earlier today:¹

- 1) A completely unredacted copy of all OPR Reports of Investigation relating to the Upper West Terrace entrance. At this time, it is impossible to tell which officer made the statements contained in what you provided;
- 2) Time-stamped copies of the full, unclipped videos labeled #0157, #0920, #0912, and #016.

We are also making the following additional requests:

- 3) The identity and contact information for every individual that passed through the Upper West Terrace doors in the relevant timeframe that is known to the government, from approximately 2:25 to 2:50 pm. According to the OPR report, there should be at least 179 such individuals. Please include whether such individuals are represented by counsel and the contact information of counsel;
- 4) Any statements made by any of these individuals to law enforcement about whether they were permitted into the building by police officers and, if applicable, video or audio copies of such statements;
- 5) Any statements in the possession of the government that any of these individuals made in social media about being permitted into the building by police officers;
- 6) Any statements in the possession of the government that any of these individuals made in text messages or messaging applications, or otherwise in their cell phones or computers regarding being permitted into the building by police officers;
- 7) Unredacted copies of any other statements made by any of these five officers, their superiors, or anyone else relating to the officers' conduct at the Upper West Terrace;
- 8) Unredacted copies of any exhibits attached to any OPR reports that have not yet been provided;
- 9) Any audio or video files in the possession of the government of any cellphones from the Upper West Terrace from approximately 2:25 to 2:50 pm; and
- 10) Any open source videos in the possession of or known to the government from the Upper West Terrace from approximately 2:25 to 2:50 pm.

Please let us know if you have any questions.

Best,

/s/

Eugene Ohm
Kate Adams
Assistant Federal Public Defenders
625 Indiana Avenue, N.W., Suite 550
Washington, D.C. 20004

¹ Unrelatedly, we reiterate our request for source documents for the sustained findings of your testifying officers.