

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

UNITED STATES OF AMERICA

v.

GREG RUBENACKER,

Defendant.

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Case No.: 1:21-CR-193-BAH

NOTICE OF FILING OF ITEMS INCOMPATIBLE WITH CM/ECF FILING

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, in accordance with Local Rule 49(e)(1), hereby files this notice of filing of the following exhibits that are incompatible with CM/ECF filing pursuant to the Court's February 8, 2022, Minute Order directing the government to submit certain evidence. The items are thirteen videos and two photographs, labeled as Exhibits 1 through 15. The government has no objection to the public release of these exhibits. At the time of filing, the government has reached out to defense counsel for the defendant regarding his position on the public release of these exhibits and has not received a response. The government will make the following video and photograph exhibits available to the Court electronically:

1. Exhibit 1 is a social media video from the defendant's Snapchat account that is 1 minute and 23 seconds long and consists of a compilation of videos the defendant recorded throughout January 6, 2021, including from inside the United States Capitol.
2. Exhibit 2 is a screenshot of a Closed Circuit Video (CCV) from the United States Capitol Police, showing the Senate Wing Doors at 2:13 p.m. The defendant is seen standing to the right of the American flag just after entering the Capitol through the broken Senate Wing Doors. He is wearing a brown-colored hood, red baseball hat, and dark-colored jacket with a fur-lined hood. The defendant is pulling a surgical mask down with his left hand and holding a bottle in his

right hand.

3. Exhibit 3 is an open-source video recorded by a third party that is 1 minute and 48 seconds long and appears to have been recorded at approximately 2:13 p.m. from just outside the Senate Wing Doors and then inside the Capitol. The video shows another angle from the time and location of the events captured in Exhibit 2. The defendant is first seen from behind inside the Capitol on the left side of the video at 1 minute and 12 seconds, wearing a brown-colored hood and dark-colored jacket with a fur-lined hood. The defendant then proceeds through a doorway and up multiple flights of stairs after a United States Capitol Police Officer.
4. Exhibit 4 is an open-source video recorded by a third party that is 1 minute and 24 seconds long and appears to have been recorded at approximately 2:14 p.m. inside the Capitol. The video shows a different angle of the events captured in Exhibit 3. The defendant is first seen from the front at 19 seconds, standing in the doorway and wearing a brown-colored hood, red baseball hat, dark-colored jacket, and a surgical mask pulled down.
5. Exhibit 5 is CCV from the Capitol Police that is 1 minute and 30 seconds long, showing the Ohio Clock Room at 2:15 p.m. The defendant is first seen entering the room through the doors on the right side of the video at 4 seconds, wearing a brown-colored hoodie, red baseball hat, and dark-colored jacket. The defendant is holding a bottle in his right hand. The defendant approaches and appears to interact with law enforcement officers and then exits the room through the doors he previously entered at about 1 minute and 29 seconds.
6. Exhibit 6 is CCV from the Capitol Police that is 43 seconds long, showing the East Rotunda Doors at 2:42 p.m. The defendant is first seen standing outside of the Capitol and approaching the doors at 20 seconds, wearing a brown-colored hoodie, red baseball hat, and a surgical mask pulled over his mouth. The defendant reenters the Capitol through the East Rotunda Doors at

38 seconds and proceeds toward the Rotunda entrance at the bottom of the video.

7. Exhibit 7 is an open-source video recorded by a third party that is 3 minutes and 26 seconds long and appears to have been recorded at approximately 2:45 p.m. from inside a Senate hallway near the Rotunda. The defendant is first seen from behind at 1 minute and 42 seconds, appearing from the bottom of the video and wearing a brown-colored hoodie, red baseball hat, and dark-colored jacket with a fur-lined hood. At 2 minutes and 7 seconds, the defendant exits the video as law enforcement officers force the crowd back by deploying pepper spray.
8. Exhibit 8 is a social media photograph from the defendant's Snapchat account that shows the defendant sitting on a maroon-colored chair in the Rotunda. The defendant is holding what appears to be a red-colored pipe with a bottle sitting on the ground on his right side.
9. Exhibit 9 is a video from the defendant's cell phone that is 29 seconds long, recorded by the defendant from inside the Rotunda at approximately 3:06 p.m. The video is from the defendant's perspective, and captures him yelling at law enforcement officers.
10. Exhibit 10 is a body-worn camera video from Metropolitan Police Department Officer N.R. that is 1 minute and 8 seconds long and recorded at approximately 3:06 p.m. in the Rotunda. The video shows the opposite angle of the events captured in Exhibit 9. The defendant is first seen at 14 seconds, standing in the Rotunda across from law enforcement officers and wearing a red baseball hat, dark-colored jacket with fur-lined hood, dark-colored pants, and white-colored shoes. Beginning at 15 seconds, the defendant is yelling at Officer N.R. and other law enforcement officers around him. At 40 seconds, the defendant is seen holding his cell phone up and in his right hand.
11. Exhibit 11 is an open-source video recorded by a third party that is 2 minutes and 55 seconds long and appears to have been recorded at approximately 3:08 p.m. inside the Rotunda. The

defendant is first seen at 5 seconds on the right side of the video wearing a red baseball hat and dark-colored jacket and approaching law enforcement officers. The defendant briefly reappears at 1 minute and 15 seconds on the bottom when the individuals in the Rotunda and law enforcement officers begin physically engaging with one another. The defendant again appears at 1 minute and 35 seconds, seen from behind wearing a red baseball hat and a brown-colored hoodie pulled down and holding a bottle in his right hand. The defendant reappears at 2 minutes and 23 seconds on the right side in the same attire. At 2 minutes and 25 seconds, the defendant is seen raising the bottle in his right hand and spraying a liquid over multiple law enforcement officers engaging with other individuals in the Rotunda. (Exhibit 11 appears to open and play successfully using a VLC Media Player).

12. Exhibit 12 is a body-worn camera video from Metropolitan Police Department Officer K.D.P. that is 33 seconds long and recorded at approximately 3:09 p.m. inside the Rotunda. The video shows a different angle of some of the events captured in Exhibit 11. The defendant is first seen at 12 seconds, standing on the right side of the video behind other individuals and wearing a red baseball hat and surgical mask pulled down. At 13 seconds, the defendant raises his right hand holding a bottle and sprays water over law enforcement officers off-video and standing to the right of Officer K.D.P.
13. Exhibit 13 is a body-worn camera video from a Metropolitan Police Department Officer B.R. that is 1 minute and 2 seconds long and recorded at approximately 3:09 p.m. inside the Rotunda. The video shows a different angle of some of the events captured in Exhibits 11 and 12. The defendant is first seen at 33 seconds, standing on the left side of the video and wearing a red baseball hat and dark-colored jacket. At 34 seconds, the defendant raises his right hand up with a bottle and sprays water at the law enforcement officers standing directly in front of Officer

B.R. who are engaging with other individuals in the Rotunda.


14. Exhibit 14 is CCV from the Capitol Police that is 4 minutes and 15 seconds long, showing the Rotunda from approximately 3:06 p.m. to 3:10 p.m. The defendant is first seen from behind at 5 seconds, standing in the upper right quadrant of the video and wearing a red baseball hat, brown-colored hoodie pulled down, and dark-colored jacket. At 15 seconds, the defendant is seen standing on the right side of the video in a clearing of people, holding his right arm up as if holding something, and wearing white-colored shoes. At 30 seconds, the defendant is interacting with law enforcement officers—including Officer N.R.—as captured in Exhibits 9 and 10. At 1 minutes and 25 seconds, the defendant appears to engage with law enforcement officers attempting to clear the Rotunda. At 2 minutes, the defendant is standing at the front of the line of individuals confronting law enforcement officers, and he appears to be yelling and pointing at the officers. At 2 minutes and 38 seconds, the defendant raises his right hand holding a bottle and, at 2 minutes and 44 seconds, the defendant swings the bottle down and hits a law enforcement officer on the helmet. At 3 minutes and 50 seconds, the defendant is seen standing to the left of a large blue flag with a bottle in his right hand, and, at 3 minutes and 55 seconds, he raises the bottle and sprays liquid over multiple law enforcement officers engaging with other individuals in the Rotunda. At 4 minutes and 5 seconds, other officers forcibly move other individuals into the defendant, and the defendant approaches the left side of the video, toward the east exit of the Rotunda. (Exhibit 14 appears to open and play successfully using a VLC Media Player).
15. Exhibit 15 is CCV from the Capitol Police that is 7 minutes and 19 seconds long, showing the East Rotunda Doors from approximately 3:12 p.m. to 3:20 p.m. The defendant is first seen from the front at the top of the video at 19 seconds, entering the East Rotunda lobby from the

Rotunda and wearing a red baseball hat, dark-colored jacket with a fur-lined hood. The defendant is seen moving behind the column on the left side of the video and rubbing his face. At 2 minutes and 28 seconds, the defendant emerges from behind the column, rubbing his face. Another individual repeatedly pours a liquid on the defendant's face while standing in front of the column. At 7 minutes and 16 seconds, a Capitol Police officer places his hand on the defendant's back and moves him out of the Capitol through the East Rotunda Doors.

Respectfully submitted,

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