

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
JUN 12 2023

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 21-CR-189 (CJN)
	:	
RICHARD HARRIS,	:	
	:	
Defendant.	:	

STIPULATION OF THE PARTIES

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Richard Harris, and with the concurrence of their attorneys, agree and stipulate to the following:

Exhibit 900: The Capitol Building and Grounds

By law, the U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol. The U.S. Capitol building has 540 rooms covering 175,170 square feet of ground, roughly four acres. The building is 751 feet long (roughly 228 meters) from north to south and 350 feet wide (106 meters) at its widest point. The U.S. Capitol Visitor Center is 580,000 square feet and is located underground on the east side of the Capitol. On the west side of the Capitol building is the West Front, which includes a variety of open concrete spaces, a fountain surrounded by a walkway, two broad staircases, and multiple terraces at each floor. On January 6, 2021, the inaugural stage scaffolding was on the West Front of the Capitol building. On the East Front are three staircases, porticos on

both the House and Senate side, and two large skylights into the Visitor's Center surrounded by a concrete parkway.

On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public. See Map Outlining Restricted Area on January 6, 2021, attached as Government Exhibit 400. These security barriers included bike racks that were positioned to the north of the U.S. Capitol along Constitution Avenue; to the south of the U.S. Capitol along Independence Avenue; to the west of the U.S. Capitol along First Street on the eastern side of that street; and, on the east side of the U.S. Capitol, between the Capitol Plaza (East Front) and the grassy areas located between the Plaza and First Street. Within the West Front of the Restricted Area there were additional temporary barriers due to preparations and ongoing construction for the Inauguration which was scheduled for January 20, 2021, including green snow fencing and signs stating "Area Closed By order of the United States Capitol Police Board."

On January 6, 2021, the Restricted Area described above and depicted in Government Exhibit 400 was a posted, cordoned off, or otherwise restricted area where the Vice President and members of his immediate family were and would be temporarily visiting.

Exhibit 901: The Certification of the Electoral College Vote

On January 6, 2021, a joint session of the United States Congress convened at the U.S. Capitol. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in both the House and Senate chambers of the Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election. The Presidential Election had taken place on Tuesday, November 3, 2020.

On January 6, 2021, the House of Representatives began its session at approximately 12:00 p.m., the Senate began its session at approximately 12:30 p.m., and the two Houses met together

at approximately 1:00 p.m. in the House of Representatives chamber to begin the joint session. Vice President Mike Pence was in the Capitol building and presiding over the joint session. At approximately 1:15 p.m., the House and Senate adjourned to their separate chambers for up to two hours to resolve a particular objection.

At approximately 2:12 p.m., Vice President Pence evacuated the Senate chamber, and approximately one minute later the senator who had become the presiding officer in Vice President Pence's absence declared that the Senate would stand in recess. Senators evacuated the Senate chamber.

At approximately 2:15 p.m., Speaker Nancy Pelosi, who was presiding over the House of Representatives, evacuated the House chamber, and approximately fifteen minutes later the representative who had become the presiding officer in her absence declared that the House would stand in recess. Representatives evacuated the House chamber.

The joint session was suspended.

The Senate and House resumed meeting at approximately 8:06 p.m. and 9:02 p.m., respectively. Congress's joint session continued until approximately 3:44 a.m. on January 7, 2021, when it completed the certification of the Electoral College vote.

Exhibit 902: Interstate Commerce

The events on the grounds of the U.S. Capitol and in the U.S. Capitol building on January 6, 2021, obstructed, delayed, or adversely affected commerce or the movement of any article or commodity in commerce as those terms are used in Title 18, United States Code, Section 231(a)(3). The term "commerce" means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia.

Under the Constitution, Congress has the exclusive power to enact laws for the District of Columbia.

Exhibit 903: Federally Protected Function

The events on the grounds of the U.S. Capitol and in the U.S. Capitol building on January 6, 2021, adversely affected a “federally protected function” as that term is used in Title 18, United States Code, Section 231(a)(3). That means that the events on the grounds of the U.S. Capitol and in the U.S. Capitol building on January 6, 2021 adversely affected any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. The federally protected functions that were adversely affected included the following: the United States Capitol Police’s protection of the U.S. Capitol and the Capitol grounds, and the United States Secret Service’s protection of the Vice President of the United States and immediate family members of the Vice President.

Exhibit 904: Officers from the United States Capitol Police and Washington, D.C., Metropolitan Police Department

On January 6, 2021, officers from the United States Capitol Police on the U.S. Capitol Grounds and in the U.S. Capitol building were engaged in their official duties as officers or employees of the United States or of any agency in any branch of the United States Government, as those terms are used in Title 18, United States Code, Section 1114.

On January 6, 2021, officers from the Washington, D.C., Metropolitan Police Department responded to U.S. Capitol Grounds and the U.S. Capitol building to assist officers from the USCP who were engaged in their official duties as officers or employee of the United States or of any agency in any branch of the United States Government, as those terms are used in Title 18, United States Code, Section 1114.

Exhibit 905: United States Capitol Police Closed Circuit Video Monitoring

The United States Capitol Police operate and maintain closed-circuit video monitoring and recording equipment that captures locations inside and outside of the U.S. Capitol building and on the Capitol grounds. The video equipment timestamps each recording with the date and time at which the footage is captured. The USCP-controlled video equipment was in good working order on January 6, 2021, and video footage recovered from the cameras and equipment with the timestamp of January 6, 2021, is footage from January 6, 2021. The events depicted in the video footage are a fair and accurate depiction of the events at the U.S. Capitol on January 6, 2021; the timestamps on the recordings are accurate; and the video footage was not altered or edited in any way. The video footage, contained in Government Exhibits 001, 100-124, and 1000 is authentic in that it is what it purports to be. The video and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.

Exhibit 906: Body Worn Camera

The body worn camera videos are created and maintained by the Metropolitan Police Department. They are accurate and were created using reliable methods. The video was not altered or edited in any way. The video footage, contained in Government Exhibits 200-212, is authentic in that it is what it purports to be. The recording software timestamps each recording with the date and time at which the footage is captured. The timestamps are accurate. The video and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.

Exhibit 212 is a slowed-down version of Exhibit 204. Exhibit 212 is a true and accurate copy of Exhibit 204 and has not been edited, other than the speed.

Exhibit 907: Stipulated Testimony

The parties have agreed what Lanelle Hawa's (United States Secret Service) March 21, 2022, testimony would be if called as a witness. *See* Government Exhibit 908. The parties agree that the factfinder should consider that testimony and the admitted exhibits in the same way as if it had been given in court.

The parties have agreed what Daniel Schwager's (General Counsel, Secretary of the U.S. Senate) May 24, 2022, testimony would be if called as a witness. *See* Government Exhibit 909. The parties agree that the factfinder should consider that testimony and the admitted exhibits in the same way as if it had been given in court.

The parties have agreed what Edward Tippet's (Safeway) April 27, 2022, testimony would be if called as a witness. *See* Government Exhibit 910. The parties agree that the factfinder should consider that testimony and the admitted exhibits in the same way as if it had been given in court.

Exhibit 911: Additional Photographs and Videos

The depictions in the photographs from Government Exhibits 314-318, 320, 327, 328, 333, 337, and 343 labeled under the Category "Additional Videos and Photographs" are fair and accurate depictions. The photographs are authentic in that they are what they purport to be.

The events depicted in the video footage from Government Exhibits 300-313, 319, 321-327, 329-332, 334-336, 338-342, 344, and 345 labeled under the Category "Additional Videos and Photographs" are a fair and accurate depiction of the events on January 6, 2021. The video footage is authentic in that it is what it purports to be. The video and/or any other copies are "admissible into evidence to the same extent as the original," within the meaning of Federal Rule of Evidence 1003.

Government Exhibit 312 shows Harris walking toward the Capitol building, and a third-

party asks Harris, "Did you just say Pence voted against it?" In the video, Harris can be heard responding, "Pence said he would not block. He would not block Biden's elector. They're storming the fucking Capitol now."

In Government Exhibit 300, Harris climbs on a statue outside of the Old Senate Chamber in the U.S. Capitol building. He places his hat on the statue and then yells, "Whose House?" The crowd responds, "Our House." The "Whose House," "Our House" chant is heard four times in the video.

Government Exhibit 302 was recorded on January 6, 2021, inside the United States Capitol building and shows Defendant Harris in the Rotunda of the United States Capitol building. In the video, Harris picks up a landline telephone and states, "Can I speak to Pelosi? We're coming, bitch. Oh, Mike Pence? We're coming for you, too. Fucking traitor."

There is no evidence that any person was on the other end of the phone line as Harris spoke into the telephone, nor is there evidence indicating that Harris left a recorded message. Because of this, it is possible that Harris picked up the phone and heard a dial tone and, without dialing anyone, spoke as shown in the video.

Exhibit 912: Chain of Custody

As part of this case, the FBI executed an arrest warrant and search warrant with respect to Defendant Harris. The United States and Harris agree and stipulate to the following:

1. The FBI lawfully seized Government Exhibit 800, an Android cellular telephone, in the course of the arrest and search in this case.
2. FBI maintained proper chain of custody for Government Exhibit 800.
3. Government Exhibit 800 is the item seized by the FBI and is in the same or substantially the same condition as the date of its seizure.

Exhibit 913: Standard Protocols for Device Extraction

As part of this case, the Federal Bureau of Investigation (“FBI”) performed a digital forensic extraction of Defendant Richard Harris’ cell phone. The United States and Harris agree and stipulate to the following:

1. Richard Harris’ cell phone number was a phone number ending in -2719 from October 1, 2020, through at least April 12, 2021.
2. On or about April 12, 2021, FBI lawfully obtained Harris’ cell phone and retained it as evidence in this case.
3. FBI maintained proper chain of custody for Harris’ cell phone throughout the pendency of this case.
4. FBI employed proper and reliable techniques to extract the data from Harris’ cell phone.
5. Government Exhibit 801 titled “Harris – Phone Contents” is an accurate and authentic copy of digital content extracted from Harris’ cell phone.
6. Government Exhibits 500-646 are videos, photographs, and documents properly extracted from Harris’ cell phone. *See* Exhibit 801. The videos, photographs, and documents are authentic in that they are what they purport to be. The videos, photographs, and documents and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.
7. Exhibits 500-506, and 615 are fair and accurate depictions of the events on January 5, 2021. *See* Exhibit 801. The photographs are authentic in that they are what they purport to be. The photographs and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.

8. Exhibits 507-591, 611-614, 616-626, and 628-629 are fair and accurate depictions of the events on January 6, 2021. *See* Exhibit 801. The photographs and videos are authentic in that they are what they purport to be. The photographs and videos and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.
9. Exhibits 592-607, and 627 are fair and accurate depictions of the events on December 21, 2020. *See* Exhibit 801. The photographs and videos are authentic in that they are what they purport to be. The photographs and videos and/or any other copies are “admissible into evidence to the same extent as the original,” within the meaning of Federal Rule of Evidence 1003.

Respectfully submitted,

DATED: June 12, 2023

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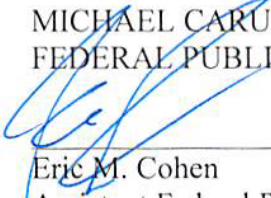
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