

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
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 :
 V. : CASE NO. 21-MJ-649
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 TIM LEVON BOUGHNER :
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**DEFENDANT BOUGHNER'S SUPPLEMENTAL RESPONSE
TO UNITED STATES' MOTION IN SUPPORT OF PRETRIAL DETENTION**

The government is seeking pre-trial detention of Defendant, Tim Levon Boughner, in this matter. *See Motion in Support of Pretrial Detention*, ECF No. 9. The defense has responded to the government's motion seeking detention. *See Response*, ECF No. 12. A detention hearing is currently scheduled before this Court on January 7, 2022.

Defendant Boughner, through undersigned counsel, files this supplemental response to the government's *Motion in Support of Pretrial Detention* for consideration by this Court.

Specifically, the defense requests that this Court consider the following additional cases in which January 6 defendants were not detained pending the resolution of their cases. Counsel became aware of these cases during preparation for the upcoming detention hearing. These additional cases involve comparable, or worse, conduct than Mr. Boughner's conduct on January 6th.

1. *United States v. Miller, 21-CR-75 (Judge Moss)*

Miller, a self-described member of the “Patriotic American Cowboys” is charged with assaulting officers with a dangerous weapon. Specifically, Miller was observed encouraging/directing others during the most violent assault that day that took place over the course of two hours on the Lower West Terrace. During this extended assault, Miller brandished a fire extinguisher and directly sprayed several officers with it.



Miller also used a metal barrier as a ladder to scale the wall of the U.S. Capitol and assisted others in scaling the wall.

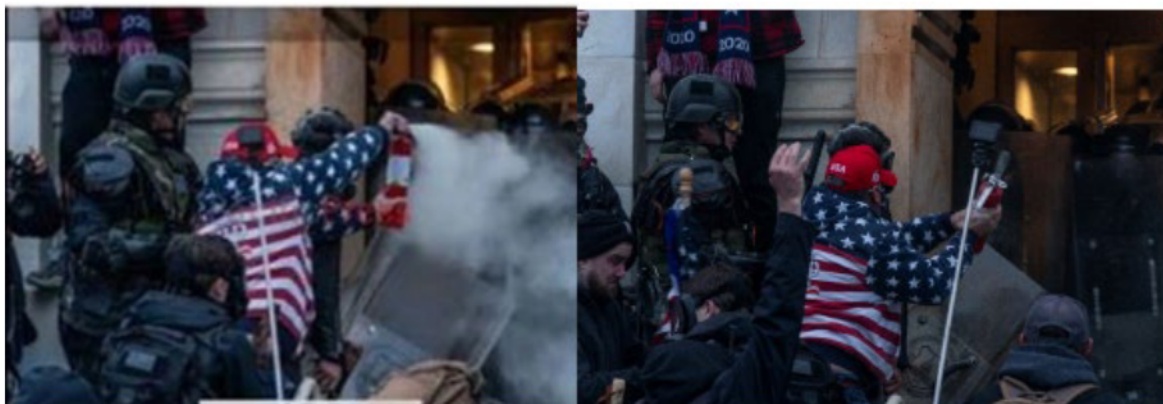


Miller was also observed during the assault on the Lower West Terrace waving his hand and multiple times yelling “come on” and “one, two three push!” *See Statement of Facts*, ECF No. 1-1; *United States’ Memorandum in Support of Pretrial Detention*, ECF Nos. 13; *Government’s Opposition to Defendant’s Motion to Modify Conditions Of Release*, ECF No. 55.

The government moved for detention. After a hearing, Judge Moss ordered Miller released on special conditions. *See Order*, ECF No. 22. After his release, the government discovered that Miller was affiliated with the Proud Boys. The government also was provided with video showing Miller throwing unidentifiable objects in the direction of law enforcement while draped in a Confederate flag. Despite these additional facts, the government did not move to revoke Miller’s release on special conditions. *See Government’s Opposition to Defendant’s Motion to Modify Conditions of Release*, ECF No. 55.

2. *United States v. Palmer, 21-CR-328 (Judge Chutkan)*

Palmer was charged with assaulting officers with two different deadly weapons. Specifically, Palmer threw a wooden plank at both U.S. Capitol Police officers and Metropolitan Police Department officers. He then moved to the front line of the Lower West Terrace assault, where he brandished a fire extinguisher and sprayed it directly at several officers until it was empty. Palmer then heaved the fire extinguisher at the officers. *See Complaint and Statement of Facts*, ECF No. 1-1; *Statement of Offense*, ECF No. 23.



The government did not seek Palmer's detention; rather, it agreed to his release and the defendant was released on special conditions. *See Order Setting Conditions of Release*, ECF No. 10.

3. *United States v. Leffingwell, 21-CR-05 (Judge Jackson)*

Leffingwell is charged with assaulting two different U.S. Capitol Police officers. Specifically, Leffingwell entered the U.S. Capitol and, while he was inside the structure, police officers attempted to detain him. Defendant Leffingwell repeatedly punched the officers with a closed fist in the head area and the chest area and then attempted to avoid apprehension. *See Complaint and Statement of Facts*, ECF No. 1-1.

The government did not seek detention; rather, it agreed to his release and the defendant was released on special conditions. *See Order Setting Conditions of Release*, ECF No. 5.

The defense asserts that these additional cases in which the defendants were all released either by Court order or by agreement with the government involve comparable, or worse, conduct than Mr. Boughner's conduct on January 6th.

Respectfully submitted,

/s/ James J. McHugh, Jr.
James J. McHugh, Jr., #48308PA
Hunter Labovitz, #204760PA
Federal Community Defender for the
Eastern District of Pennsylvania
601 Walnut Street, Suite 540W
Philadelphia, PA 19106
(215) 928-1100
james_mchugh@fd.org
hunter_labovitz@fd.org

CERTIFICATE OF SERVICE

I, James J. McHugh, Jr, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that on this 5th day of January 2022, I have filed and served a copy of Defendant's *Supplemental Response to United States' Motion in Support of Pretrial Detention* through the District of Columbia Clerk's Office Electronic Case Filing ("ECF") and/or by electronic mail upon:

Mitra Jafary-Hariri
Assistant United States Attorney, Detailee
211 W. Fort Street, Suite 2001
Detroit, MI 48226

/s/ James J. McHugh, Jr.
JAMES J. McHUGH, JR
Assistant Federal Defender