

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

**UNITED STATES OF AMERICA** :  
 : **Case No. 1:21-cr-225 (DLF)**  
 v. :  
 :  
**TRENISS JEWELL EVANS III,** :  
 :  
 **Defendant.** :

**UNITED STATES' MOTION TO COMPEL DISCOVERY OF VIDEO AND AUDIO  
RECORDINGS AND TO EXTEND TIME TO RESPOND TO COURT ORDER**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this motion to (1) compel defendant Treniss Evans to produce any video and/or audio recordings in his possession of any communications with the FBI on or after March 16, 2023; and (2) to extend the time for the government to respond to the defendant's most recent allegations of misconduct (ECF No. 85-1 at 6-13, 18-21) until seven days after the defendant has disclosed any such recordings. In the alternative, the United States respectfully moves the Court for a seven-day extension of time, until August 11, 2023, to respond to the Court's order. As explained below, ample basis exists for the relief sought in this motion.

1. On January 6, 2021, the defendant participated in the riot and attack on the United States Capitol. In March 2021, he was charged with obstructing an official proceeding, which is a felony, and four misdemeanors. On March 10, 2022, as part of a plea agreement, the defendant pleaded guilty to one count of entering or remaining in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(1). In November 2022, the court sentenced the defendant to 36 months of probation, with a condition that he serve 20 days of intermittent confinement. (ECF No. 68).

After the defendant's sentence became final, the defendant personally reached out to the FBI's field office in San Antonio seeking the return of property that had been seized when the defendant was arrested in March 2021. In March 2023, the FBI thus made arrangements for the defendant to visit the FBI's San Antonio office and retrieve the seized property. The property was returned to the defendant on March 16, 2023.

On July 21, more than four months after his visit to the FBI's San Antonio office, the defendant filed a motion to modify his sentence, asking the Court to remove his intermittent-confinement condition. (ECF Nos. 85, 85-1). In relevant part,<sup>1</sup> the defendant alleged that, when he visited the FBI's San Antonio office to retrieve his property in March 2023, an FBI agent acted "unethical[ly]" and "illegal[ly]" (ECF No. 85-1 at 5) in the course of discussing the possibility that the defendant "help[] the FBI" (*id.* at 7) and "become a source of sort with the FBI" (*id.* at 8). Notably, although the defendant's declaration makes no reference to any audio or video recordings in the defendant's possession, the defendant has stated in a publicly available interview that "the government [was] caught red-handed with audio and video controls of this information"—in context, evidently, his conversation with the FBI in March 2023—and that "we can produce [that evidence] to show that they did what they did and we are asking that that be reviewed." Alicia Powe Show *EXCLUSIVE: FBI's J6 Set-Up, Treniss Evans With Alicia Powe*, <https://www.redvoicemedia.com/video/2023/04/exclusive-fbis-j6-set-up-treniss-evans-with->

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<sup>1</sup> In his declaration, the defendant also rehashes his longstanding grievances about the government's conduct and portrayal of his prior actions at sentencing. The government does not construe the Court's July 28, 2023 order as directing a response to those grievances, which the Court already addressed at the defendant's sentencing hearings and have no bearing on the defendant's current motion or probationary status.

alicia-powe/ (at 21:48 to 21:59); *see also id.* at 18:08 to 21:48 (context of allegations).<sup>2</sup> On July 28, 2023, the Court denied the defendant’s motion to modify his sentence in a minute order.<sup>3</sup> In the same order, the Court directed the government to respond, by August 4, “to the defendant’s statements in his attached [85]-1 Declaration related to alleged misconduct.”

2. To start, the government takes any allegations of misconduct seriously and is firmly committed to investigating any alleged misconduct. Indeed, the government has already initiated its review and investigation of the alleged events. To ensure that the government’s response to this Court is accurate and exhaustive, however, the government respectfully requests that the defendant be compelled to produce any audio and/or video recordings of the relevant encounters and communications with the FBI, as the defendant has now publicly claimed that he possesses such recordings and that he can produce them.

The very nature of the defendant’s allegations highlights why disclosure of any such recordings is critical. Even accepting those allegations at face value, and putting aside the accompanying hyperbole and innuendoes, the defendant appears to allege that the misconduct resulted from (i) an FBI agent’s alleged use of the phrase ““read between the lines”” in connection with the defendant’s grievances about his past interactions with the government; and (ii) the same agent’s alleged statement or suggestion that the defendant should “not ... tell anyone including

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<sup>2</sup> In the same interview, the defendant also complained that he “immediately tried attempted [sic] to report [the March 2023 encounter] to the Court [inaudible] the Court will not respond to me.” *Id.* at 19:05 to 19:15. The docket does not reflect any such “attempt[.]” prior to the July 21 filing, nor was the government informed of any *ex parte* filings or communications by the defendant.

<sup>3</sup> In the same minute order, the Court also denied a separate motion, in which the defendant had asked the Court to modify his conditions of probation and permit him to have contact with felons convicted in connection with the January 6 attack on the United States Capitol.

probation, [his] counsel, and the court” about the alleged conversation. ECF No. 85-1 at 9-10; *see also id.* at 20 (alleging proposal to “‘work off the books’ for the FBI”). In other words, the alleged misconduct turned on the meaning of specific phrases purportedly used by the FBI agent—and the precise context in which those phrases were allegedly used—during a conversation that allegedly occurred more than four months ago. In short, the defendant’s claim is entirely context- and language-specific.

Were no audio and video evidence available, it might well be appropriate, of course, to rely on individuals’ memories to ascertain what transpired in the alleged encounter. But the defendant himself has made clear that a better, more reliable process is available in this case. As noted, the defendant has publicly indicated that he possesses “audio and video controls” of the alleged encounter and that he “can produce [the information] to show that [the government] did what they did.” Alicia Powe Show, *EXCLUSIVE: FBI’s J6 Set-Up, Treniss Evans With Alicia Powe*, <https://www.redvoicemedia.com/video/2023/04/exclusive-fbis-j6-set-up-treniss-evans-with-alicia-powe/> (at 21:48 to 21:59). Accordingly, the defendant should now be compelled to produce any relevant recordings in his possession, so that his misconduct claims can be properly vetted and assessed and that, if appropriate, further action can be taken.

Accordingly, the government respectfully requests that the Court:

- (1) order the defendant to produce any video and/or audio recordings of his communications with FBI agents on or after March 16, 2023, and, if no such recordings exist, to certify that no such recordings exist in a sworn declaration; and
- (2) extend the time for the government to respond to the Court’s order dated July 28, 2023, until seven days after the defendant’s response.

In the alternative, the government respectfully requests that the Court grant a seven-day extension of time, until August 11, 2023, to respond to the Court's order.

August 3, 2023

Respectfully submitted,

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