

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

UNITED STATES OF AMERICA :

v. : 1:21-CR-108 (TSC)

MICHAEL FOY :

DEFENDANT’S EMERGENCY BOND REVIEW MOTION

Michael Foy is detained without bond at the D.C. Jail, having arrived on March 9, 2021 from Grady County, Oklahoma. He was arraigned on March 10, 2021 in this Court. Mr. Foy was detained by Magistrate Judge Patricia Morris in the U.S. District Court for the Eastern District of Michigan. He was detained on January 24, 2021, based on a complaint charging, *inter alia*, Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon, in violation of 18 U.S.C. § 111(b). The government requested pretrial detention of Mr. Foy , pursuant to 18 U.S.C. § 3142(f)(1)(A) and 18 U.S.C. § 3142(f)(1)(B), asserting that there are no conditions or combination of conditions that will reasonably assure the safety of the community and that Mr. Foy is a serious flight risk.

Despite the Magistrate Court’s ruling, the government has not proven, by clear and convincing evidence that he poses a danger to the community and because the government cannot show, by clear and convincing evidence, that there are no conditions nor combination of conditions of release that will reasonably assure the safety of the community. In addition, the government has not proven, by preponderance of the evidence, that Mr. Foy is a serious flight risk.

Introduction

Mr. Michael Foy is a young man who has spent his young life in service of others. He worked as a certified nursing assistant in a nursing home and served this country for nearly five years. And on January 6, when people were being crushed at his feet, he acted in defense of those others. Mr. Foy is innocent of assault because his actions were legally justifiable. He saw individuals in imminent danger of bodily harm and used a reasonable amount of force to protect and defend those people who were being trampled.

Factual Background

Mr. Foy is a 29 year-old man with strong ties to the Michigan community with exceptionally strong family support. See Exhibit C. Most recently, he served in the United States Marine Corps from 2015 until June 2020 when he was honorably discharged after advancing to the rank of Corporal. Until last year, he was serving in the Marines as a Supervisor on base in North Carolina and before that, he was also a Marines Heavy Equipment Mechanic both here and abroad. His overseas service consisted was in Okinawa from 2015 to 2017. For his service, he received the Good Conduct Medal from the Commandant of the Marines and has also been commended for assisting the Wounded Warrior Battalion in Camp Lejeune, North Carolina. Although Mr. Foy was not in combat – his role was to maintain military equipment - he suffered significant psychological casualties from his service. In 2019, he was diagnosed with unspecified Anxiety Disorder while on Active Duty, the first of three significant diagnoses. In June 2020, he was discharged into a civilian life upended by a worldwide pandemic.

Predictably, Mr. Foy could not find a job when he returned home. In June 2020, the unemployment rate in Michigan was 14.8%. <https://www.michigan.gov/dtmb/0,5552,7-358-82543-534197--,00.html> (last accessed, Mar. 3, 2021). When Mr. Foy could not find work, he

turned his attention to helping others. He volunteered with the Michigan Mountain Biking Association and maintained and created trails so that people could manage the pandemic with safe recreational activities. He also enrolled into the Oakland County Community College to pursue a business degree. Although he loved this work and wanted to advance his education, he still struggled to transition into civilian life.

From the outset, Mr. Foy struggled with mental health issues and he sought treatment at the Veterans Administration Hospital in Ann Arbor, Michigan. In December 2020, Mr. Foy and his family noticed that things were getting worse. He requested an additional evaluation and was, for the first time, diagnosed with Major Depressive Disorder and Post-Traumatic Stress Disorder. He received this diagnosis on December 23, 2020, two weeks before January 6th. He was placed on new and additional medication which he began to take in the last week of December.

After the election, Mr. Foy was repeatedly told by Donald Trump and the Republican Party that President Trump had been reelected and that the election was in the process of being stolen. Inundated by these reports through television and internet news sources, Mr. Foy believed what he was told and attended a local demonstration to peacefully voice his opinion that the 2020 election was tainted.

According to the government's investigation, Mr. Foy went to the January 6th protest alone. Mr. Foy initially had not plans to attend the protest in Washington D.C. But in the early morning hours of January 6th, he decided to drive from his home in Michigan to the District. Without a plan to even sleep overnight, Mr. Foy packed some food and water, grabbed his Trump flag and attached it to a makeshift flagpole – a hockey stick that he had sitting around his residence. He then drove to the District, stopping only for gas and bathroom breaks.

Mr. Foy's last-minute decision to attend the protest is consistent with his social media presence - he had not coordinated with anyone over social media. He had no intentions of violence, insurrection, entering the Capitol or obstructing the certification. He wanted to hear President Trump speak in person and voice his support for the incumbent who told him that the election was not yet completed.

Video evidence shows that on January 6th, Mr. Foy used the makeshift flag pole to defend individuals being trampled by advancing police officers. Mr. Foy was positioned with hundreds of other demonstrators who were outside the portico leading into the Capitol outside the West entrance. The individuals, a mix of peaceful protestors and those seeking to enter the building and disrupt the certification process, chanted U.S.A. and sang the Star-Spangled Banner. Meanwhile, a number of police officers gathered inside the Capitol just inside the doors of the West entrance.

About an hour earlier, before Mr. Foy arrived on the scene, officers were inside glass doors and were attempting to close the doors to keep out the demonstrators. It has widely been reported that an officer was trapped at one of those doors, shouting in pain. But an hour later, at the time of this incident, the scene had changed. The officers had pushed the crowd outside the doors and back several yards and were then at the mouth of the portico. Directly in front of the officers was a packed crowd of people. A few feet behind them were several steps and a metal railing.

Exhibit A is the body worn camera footage of an officer who pushed to the front of the line of officers. Once he does so, there appears to be some jostling between officers and civilians in front of them. Outside the view of the camera, a young lady named Rosanne Boyland, had fallen on the stairs. Her friend, Justin Winchell, was yelling at people to clear the

way so she could have space. Some individuals moved aside, backing officers into the portico. Officers shoved back and pushed civilians on top of one another. The officer with the body worn camera then held a baton in two hands and pushed the back of the civilian. At that time, a number of the protestors began to warn the officers that there were individuals who had fallen on the stairs that were being crushed. In the two minutes before Mr. Foy became involved, the following statements are heard on Exhibit A¹:

- Back up! Back up! Exhibit A at 2:24.
- I'm trying to get out! Help me please! Exhibit A at 2:30.
- I'm trying, I'm trying to get out, please, I'm trying to get out. I'm on the ground.
Exhibit A at 2:34
- There's people under here! There's people pressed under here! (pointing to protestors being pushed by police) Exhibit A at 2:53.
- Get up off the steps! Cops! Cops! You gotta stop! Push back! Exhibit A at 3:12.
- You gotta push back! Quit pushing people. Exhibit A at 3:16.
- Stop you're crushing him. You gotta let up a second, you're crushing people.
Exhibit A at 3:19.
- Someone's being crushed! Let 'em out! Get her up. Get her up, please, save her life! Exhibit A at 3:38.
- Stop! Stop! She's gonna die! She's gonna die! Exhibit A at 3:59.
- Please stop pepper spray, we're trying to (inaudible)! Exhibit A at 4:04.
- People are getting tased! Exhibit A at 4:13.

¹ Exhibit A was used in Mr. Foy's initial detention hearing. The subtitles, which do not capture all that was said, was added by the defense for demonstrative purposes.

- Save her! Save her! Exhibit A at 4:15.
- She's gonna die! She's gonna die! She's dead! Exhibit A at 4:43
- She's dead! She's dead! I need somebody, she's dead! I need medical! Exhibit A at 5:01.

The officers either did not hear or did not heed the warnings and appear to push forward. In Exhibit A, officers are pushing individuals back towards the stairs. Exhibit A at 1:52; 2:22; 2:41; 3:01; 3:11; 3:17; 3:26; 3:34-3:39; 3:45-4:24; 4:33-4:45. Despite being told that people were pressed under them, the officers continued to push the individuals with their batons. And while it is not apparent on this particular video, the statements of individuals in the crowd suggest that officers were using pepper spray and tasers.²



² The defense has requested expeditious production of all body worn camera footage relating to the alleged assault under *Brady v. Maryland* and the Due Process Protections Act because this evidence is likely to demonstrate Mr. Foy's innocence.

As officers pushed, individuals started falling on top of each other. Beneath them was another layer of people, some who had fallen on the ground.



Exhibit A at 4:20.

People shouted “Save her!” and “Help,” a few feet from where Mr. Foy was standing. For a few minutes, he did nothing of note, standing at the bottom of the steps and observing what was happening. As the scene intensified, a flagpole was picked up and thrown in the direction of the officer. Two individuals bent down to try to help the young woman lying at the bottom of the steps. An officer on body worn camera then extended his asp baton to its full length. At that moment, Mr. Winchell turned around and yelled “I need help!” in Mr. Foy’s direction. At that moment, Mr. Foy took a few steps forward holding the sign attached to the hockey stick. He started swinging the hockey stick, creating space between the officers and the young lady on the ground. He did so for about 15 to 20 seconds before retreating from the scene. Exhibit B at 4:58. Seconds later, a man is heard screaming at the police, “I fucking saw them kill a girl!” Exhibit A 5:46. Less than a minute later, an apparently unconscious woman, later identified as Rosanne Boyland, was dragged from the steps.



Argument

Consistent with the presumption of innocence and the Eighth Amendment prohibition against excessive bail, the Bail Reform Act of 1984 provides that a defendant should be released pending trial on personal recognizance or “subject to the least restrictive further conditions, or combination of conditions that . . . will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(b) and (c)(1)(B). The Supreme Court has explained: “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987); see also *United States v. Singleton*, 182 F.3d 7, 9 (D.C. Cir. 1999) (“Detention until trial is relatively difficult to impose.”). As a general rule, courts should refuse to release defendants on bail “[o]nly in rare circumstances,” and “only for the strongest of reasons.” *United States v. Motamedi*, 767 F.2d 1403, 1405, 1406 (9th Cir. 1985) (Kennedy, J.). Any “[d]oubts regarding the propriety of release should be resolved in favor of the defendant.” *Id.* at 1405.

The government bears the burden of demonstrating, by clear and convincing evidence, that preventative detention is necessary to ensure the safety of the community. Although a rebuttable presumption applies here for detention, Mr. Foy’s lack of criminal history, military service and prolonged evidence of his good character rebut the presumption. In addition, the government has not demonstrated that Mr. Foy is a serious risk of flight.

As a veteran with diagnosed mental illnesses, Mr. Foy is eligible for mental health treatment at the Veterans Administration treatment center in Battle Creek, MI. The Pretrial Service Report from Michigan notes that Department of Veteran Affairs therapist, Matt Brown reported “the defendant could be referred by his psychiatrist to a cost-free thirty day inpatient

mental health and substance treatment program located at the Battle Creek, Michigan VA Medical Center.”³

A. Mr. Foy rebuts the presumption for detention.

Although Mr. Foy is charged with one offense that triggers a rebuttable presumption, he easily rebuts that presumption. The rebuttable presumption does not require that the defendant carry the burden of proof or persuasion but rather, requires the defendant “to offer some credible evidence contrary to the statutory presumption.” *United States v. Alatishe*, 768 A.2d 364, 371 (D.C. Cir. 1985). Instead, a defendant “bears a limited burden of production – not a burden of persuasion – to rebut that presumption by coming forward with evidence that he does not pose a danger to the community or a risk of flight.” “A defendant’s burden of production to rebut the Bail Reform Act’s presumption of detention is not heavy.” *United States v. Dabney*, 2020 WL 1866750 at *2 (D.D.C. 2020) (finding presumption rebutted with strong ties to the community, family support and lack of adult criminal history); see also *United States v. Mercedes*, 254 F.3d 433, 436 (2d Cir. 2001). “Even in a presumption case, the government retains the ultimate burden of persuasion by clear and convincing evidence that the defendant presents a danger to the community.” *Id.* Mr. Foy has no prior criminal convictions. He has spent much of his adult life in service to the United States. That very service has left him broken – he has been diagnosed with three significant mental health conditions that contextualize the alleged conduct from January 6th. In addition, the presumption does not account for conduct in response to the risk of bodily harm. Mr. Foy’s conduct did not occur until the need to use force arose. When the continued advancement of the police began to crush people at his feet, Mr. Foy used reasonable

³ Counsel has learned that the treatment program options a Battle Creek VA Hospital span from 30 to 90 days inpatient.

force – a fact that substantially undermines the government’s case as well as any suggestion that he is dangerous.

- B. The Government has not proven, by clear and convincing evidence, that preventative detention is necessary to ensure the safety of the community.

Under the Bail Reform Act, the Court must consider the following factors when determining whether the government has set forth clear and convincing evidence that Mr. Foy be detained. They are: 1) the nature and circumstances of the offense charged; 2) the weight of the evidence; 3) the history and characteristics of the person charged; and 4) the nature and seriousness of the danger posed by the person to any person in the community if he is released. 18 U.S.C. 3142 (g).

Weighing all of these factors, this Court should release Mr. Foy.

1. Nature and Circumstances of the Offense Charged

The nature and circumstances of the offenses charged weigh in favor of release. Presumably, the government has requested detention for Mr. Foy because of his alleged assault with his makeshift flagpole – a hockey stick which was no more dangerous than the hundreds of flagpoles or makeshift flagpoles used in this and other demonstrations. Although he is charged with a number of other offenses, others who have been charged with those same offenses have nearly universally been released.

The nature and circumstances of the offense factor must focus on the approximately twenty-five second window in which Mr. Foy is alleged to have assaulted police. Those twenty-five seconds of chaos, precipitated by individuals falling and getting crushed, are not representative of whether Mr. Foy is a danger to the community outside of those very unusual circumstances.

The events of January 6th, and Mr. Foy's participation in them, was a moment in history that has now passed. In the past two months, the events have thankfully not been repeated. There is no alluring event - no presidential call to duty for protestors like Mr. Foy, individuals who had no connections to any right-wing groups, are not white supremacists but were simply supporters of Donald Trump and became involved only because the President insisted that patriotism required action.

Moreover, Mr. Foy did not act violently either before or after he stood feet away from unarmed people being crushed and a woman being trampled to death. There is no evidence that he destroyed any property, broke or attempted to break windows with his hockey stick or acted disrespectfully inside the building. He did not assault any officers or confront any officers. He did not threaten anyone. Aside from that 25 second window, Mr. Foy acted no differently than hundreds of others who have been released. And that 25 second window was precipitated by witnessing the trampling of a young woman. As discussed below, it was objectively reasonable for Mr. Foy to believe that the police were causing death or at least imminent bodily harm. The available video evidence, viewed fairly, shows just that. And it was reasonable for him to use force to try and prevent that physical harm and reasonable to answer what he believed to be calls for his help.

2. The weight of the evidence.

The evidence of Mr. Foy's identity is strong but the analysis does not end there. Viewing all of the evidence, Mr. Foy is innocent and the weight of the evidence strongly favors his release.

There is strong evidence that Mr. Foy acted in defense of others in using non-deadly force and the government is unlikely to prove, beyond a reasonable doubt, otherwise. The D.C. Pattern Jury Instructions provides the law of defense of a third person:

Every person has the right to use a reasonable amount of force in defense of another person if (1) s/he actually believes that the other person is in imminent danger of bodily harm and if (2) s/he has reasonable grounds for that belief. The question is not whether looking back on the incident you believe that the use of force was necessary. The question is whether [name of defendant], under the circumstances as they appeared to him/her at the time of the incident, actually believed that the person s/he was seeking to defend was in imminent danger of bodily harm, and could reasonably hold that belief. Defense of another person may be a defense to the charge(s) of [insert all charges to which defense applies].

...

[Name of defendant] is not required to prove that s/he acted in the defense of another person. If evidence of defense of another person is present, the government must prove beyond a reasonable doubt that [name of defendant] did not act in the defense of another person. On the other hand, if the government has proved beyond a reasonable doubt that [name of defendant] did not act in defense of another person, along with each other element of the offense, then you must find him/her guilty of the offense of [insert name of offense(s)].

1 Criminal Jury Instructions for DC Instruction 9.510 (2020)

A closer inspection of the evidence demonstrates that Mr. Foy used the appropriate amount of force to defend individuals who were being crushed by advancing police officers. As Mr. Foy approached the area, a man was shouting that someone was “dying” and needed “medical.” Just feet away from that man, Mr. Foy could see that the distressed man and saw that he was focused on someone on the ground. Meanwhile, numerous individuals in the immediate vicinity of Mr. Foy pleaded with the officers to “quit pushing people” because “people are getting crushed under here” the officers, audible to the body worn camera. The officers continued to push forward into the crowd pushing them onto individuals who had fallen onto the ground. The tragic and unfortunate result was the death of Rosanne Boyland, the young lady who was crushed under the weight of the individuals on the stairs.

Mr. Foy is alleged to have used non deadly force at a time when Ms. Boyland and others who had fallen to the ground were in imminent harm. Officers were pushing people onto Ms. Boyland and were not responsive to verbal pleas to hold back. For the initial period that Ms. Boyland was on the ground and her friend was calling out for help, Mr. Foy stood back as the police continued to push forward. He then allegedly threw a flagpole at the officers and several seconds later, as blows were exchanged in front of him, he acted in defense of the people who were being crushed by his feet. Though he was pressed against the rail by the weight of others around him, he was within feet of Ms. Boyland and others who could not escape. And unlike other individuals, when space was created, he removed himself from the scene. Exhibit B at 2:55.⁴

To the extent that the government argues that Mr. Foy's actions were excessive, Mr. Foy has been diagnosed with Post-Traumatic Stress Disorder after his service in the Marines. PTSD has long been associated with the trait of hypervigilance. Hypervigilance is "a state of increased alertness" and a main symptom is the overestimation of a perceived threat, leading to reactions that "may be violent or hostile in a perceived attempt to defend yourself."

<https://www.healthline.com/health/hypervigilance#symptoms> (last accessed March 4, 2021).

When applying the law of defense of others, the factfinder will be required to consider Mr. Foy's hypervigilance in determining whether his subjective belief that Ms. Boyland and others were in danger of imminent bodily harm.

⁴ Exhibit B attempts to simultaneously show the footage from the body worn camera (on the right) along with footage uploaded to youtube (on the left) to demonstrate that the man alleged to be Mr. Foy withdrew well before the violence subsided. <https://www.youtube.com/watch?v=Zqh47NQtrPU> (last accessed Mar. 10, 2021).

3. The history and characteristics of defendant.

The history and characteristics of defendant weigh heavily in support of release. Mr. Foy has no prior convictions or even arrests reported by Pretrial Services. He served the country for six years, including service overseas. “Our nation has a long tradition of according leniency to veterans in recognition of their service.” *Porter v. McCollum*, 558 U.S. 30, 43 (2009).

Although he was unable to find a job in the pandemic after his discharge, Mr. Foy has worked hundreds of hours on a volunteer basis. Specifically, he helped build and maintain bike trails in the City of Detroit and other areas around Michigan. He is described universally by those around him as a “caring and loving” person who has never been known to be violent.

Significantly, Mr. Foy is known in his community to be a protector and a helper. When one family member’s house flooded, he showed up unannounced to help. When he was in the military, Mr. Foy was the one known to break up fights and arguments. Even in his adolescence, he would protect the younger kids in the neighborhood. Throughout his life, Mr. Foy would help those in trouble and in need, even if it required him to become physically involved.

4. The Nature and Seriousness of the Danger to Any Person in the Community

Mr. Foy is not a danger to anyone in the community. While he is charged with a serious offense, he used non-deadly force to defend individuals who had fallen to the ground and were being trampled by the advancing police. Mr. Foy’s history – almost thirty years of peaceful and law-abiding behavior underscores this. His dedication to this country and the sacrifices he made in joining the Marines further illustrates his non-violent character.

E. The government cannot show that Mr. Foy is a Serious Flight Risk

To the extent that the government argues that Mr. Foy is a serious flight risk, its arguments are conclusory and without factual support. Mr. Foy has very strong ties to his

Michigan community. As demonstrated by the many letters describing his character, he also has their very strong support.

Conclusion

Wherefore, for the foregoing reasons, the government has not met its burden of demonstrating that there no conditions or combination of conditions that will assure the safety of the community. Mr. Foy respectfully requests that the Court release him.⁵

Respectfully submitted,

A. J. KRAMER
FEDERAL PUBLIC DEFENDER

/s/

EUGENE OHM
Assistant Federal Public Defender
625 Indiana Avenue, N.W., Suite 550
Washington, D.C. 20004
(202) 208-7500

⁵ Exhibit A and B contain video exhibits. Counsel will await directions how to best deliver the video exhibits to the Court.

EXHIBIT A

EXHIBIT B

EXHIBIT C

3/2/2021

Re: My son Michael Joseph Foy

Your Honor,

I am writing this letter on behalf of my son Michael Foy. As a mother, this is heartbreaking for me. My son has always had a kind heart and been so sweet and caring to others. What the media is portraying of him is not the son or person that we all love and know.

I've had so many of my friends, family, neighbors and co-workers come up to me and say how polite and nice my son is. They say he has grown up to be such a fine young man. He has always put himself forward and above others to help anyone out.

When COVID hit last March, I had Michael come live with me and my husband for a few months. We live on a 10 acre small hobby farm with livestock out in a very rural area of our state. I never asked my son to do anything while living here. He volunteered on his own to help out around the house and do all the chores outside as well with the animal chores. He even took it upon himself to clear out our trails on our property, repair my shed roof, stain my bench, fix my landscape, paint my barn, garage and house. Michael even went over and helped my neighbor on a couple of his projects as well.

Michael doesn't have very much money. The pandemic made it hard for anyone to find a job in our State of Michigan. He was living with limited resources at the time and didn't even have a bed to sleep on at night. I offered many times to buy him a bed but he had too much pride to take a hand out from anyone. He always wanted me to be proud of him. He receives very little money from the VA for his PTSD and nothing else. His PTSD all started in the marines. I fear Prison will only add to his PTSD.

Michael may struggle at many things in life like a lot of us do, but the one thing he has never struggled with is helping others and being kind.

Please don't let this one unfortunate moment in his life define who is for the whole 30 years of his life. I beg for your compassion and leniency on him, as this has all been out of character for him. Prison is not the right place for him. He is too kind and won't last in there. His problems will only be just beginning from there after.

Sincerely,

Laura Hartley

1917 S. Hale Rd.

Standish, MI 48658

734)679-8399

Ref: character letter for Michael Foy

3/1/2021

To whom it may concern

I've been asked to composed this letter for a character reference of Michael Foy,

I've known Michael for several years now, meeting him at a family holiday dinner at my mothers home roughly in 2015

Michael's mother is married to my only brother as they came for dinner one Thanksgiving back in 2015

I've seen Michael at several intervals over the years as we are a close family, when together at various holidays over the years and Michael is not present, I've always inquired with hjs Mum as too his where-a-bouts and how he's doing

Michael is a kind, thoughtful and generous family member always willing to help and lend a hand,

As early as last spring, my entire home had flooded and many items were destroyed, Michael came to help unannounced to lend a hand in the clean up efforts,

I've had Michael out on my fishing boat as he was interested in how everything worked, I was even considering bringing him on board as a first mate in my charter business once he learned the ropes, Michael caught on quick, his willingness to learn and understand the ropes was catching in my eye's

Michael is a true gentleman, kind and soft spoken

I can only pray for his understanding in any trouble he may have caused,

I was totally caught off guard at the news coverage and claims of violence he is charged with, This behavior does not represent the person I know

Please contact me for any questions or concerns about the above mentioned

respectfully

Blake Hartley

Cell 586 610 5328

03/01/2021

To whom this concerns,

I am Michael W. Cuff Jr, Corporal, USMC Veteran. I served with Michael Foy in Japan for our Permanent Duty Station with MWSS-172. Michael Foy and I got to know each other as we shared cultural interests and hobbies such as the local Japanese Culture, Mtn biking and nature activities. Michael also worked on the equipment that I drove and operated daily as a Marine. The time that we were together, we grew a bond that the Marine Corps Lore and history boasts of, which is true dedication and brotherhood (general meaning to include our sisters in the Corps).

In light of recent events, I am wishing to inform anyone not knowing Michael Foy Personally that he is one of the most caring, nice and passionate individuals I have come to know. I do not believe he should be handed such a harsh punishment as many are asking. I do believe some mentorship or counseling would be most effective for interacting with the general public or a reintegration class for former military members struggling to adapt. I do also recommend some sort of guided relaxation and mental care to assist with his mental state from past and current problems.

During our time together while enlisted and the time after we both finished our Military Service, Michael Foy always reached out to those he served with. He would call us, send messages, funny photos and videos, as well as important bits of advice and information so we could ensure we are taking care of ourselves. Looking at the youtube videos and shared edited videos of Michael Foy Allegedly impacting Law Enforcement members with an item described as a Hockey Stick, I am reminded of when he would intervene in fights to try and break people apart. Whether it was Marines or regular civilians fighting, he would jump right in and fight to separate everyone to try and maintain a peaceful setting.

Seeing how he was involved in the videos leading to him running away shortly after the hockey stick video. You can see him looking back with a facial expression of horror and disbelief. Knowing who he is, something occurred that he was against and trying to prevent. Seeing this I wanted to reach out to him and see how he was doing and what happened, unfortunately or fortunately however you wish to take it, Law Enforcement arrested him with connection to the Capitol Protest before I was able to call or message him about it.

In total, I look forward to a successful reintegration and counseling of Michael Foy, not an imprisoned one, as prison is not what Michael Foy needs. He needs proper care that would help him once again become a productive member of society and a safe one too.

Semper Fidelis,

A handwritten signature in cursive script that reads "Michael Cuff".

Michael W Cuff Jr.

Alysia Murawski
6220 Pine Knob Road
Clarkston, MI 48348

March 2nd 2021

Re: Michael J. Foy

Dear Honorable Madam or Sir,

My name is Alysia Murawski, I'm writing to you today regarding my brother, Michael J. Foy.

I have always known Michael to be a gentle, kind and soft spoken person. In fact, I honestly cannot say I have ever heard him raise his voice, not once in all of these years, not even as a child. Every since Michael returned from the Marines he is always the one who pushes for family to get together for dinners and holidays. Despite Michael having his own residence he always made sure to come and stay with my husband and I every couple of months because family is incredibly important to him and we always look forward to his visits.

I hope that you will take into consideration that Michael has never before been in trouble with the law. Michael has also never once hurt/harmed anyone, in all actuality, Michael (by nature) is a protector not just to those that he loves, but strangers and animals as well. It should also be said that Michael has a very strong support system within his family. We are all willing to stand by his side and do whatever it takes to help Michael get back on his feet, if you would kindly give us the opportunity to do so.

Thank you
Alysia Murawski

To whom it may concern,

As a close and nearly lifelong friend of Michael Foy for the better part of the past 25 years, I would like to share the type of person I know Michael to be.

Growing up he took it upon himself as the oldest kid in the neighborhood, to take all of us younger than him under his wing as a protector, if you will. He was always somebody we looked up to; along with teaching myself confidence and willpower. This meant a lot growing up as the quiet kid with not a lot of self confidence. These are some of the reasons I've made it a point to carry on our friendship into adulthood amongst all of the day-to-day distractions that come with growing older.

He always maintained a fairly diverse group of people that he would surround himself around that would still speak highly of him to this day.

I look forward to being involved in helping get Michael back up on his feet, whether it be a job, or just a part of his support system. I know he would do the same for me.

Thank you for your time and consideration. If you have any further questions or comments my contact information is below.

Zachary Schlaff

9296 Stonehouse Ave.

Livonia, MI 48150

(734)788-7430

Mark Murawski
6220 Pine Knob Road
Clarkston, MI 48348

March 2nd, 2021

Re: Michael Foy

To the Honorable Judge

I have known Michael Foy for approximately 14 years and was very surprised to hear about his recent case. Michael Foy has always been a stand up individual which is why I am happy to write this letter in support of his character. I understand the seriousness of this matter and hope the court will review Michael Foy's complete community record and show some leniency.

I have known Michael Foy to be an outstanding person and an asset to the community. Michael loves this country, which is why he signed up and served in the United States Marine Corps shortly after graduating from high school. After returning from the military Michael was looking to find work as a truck mechanic but was having a difficult time due to the required certifications, covid19 only compounded the difficulties he faced. It is extremely unfortunate that Michael got caught up in the events that took place on January 6th at the capital and I am sure he regrets his actions. That is not the Michael Foy I know.

In closing, I believe Michael Foy is an honorable person and an asset to society and the United States of America. It is my sincere hope that the court will take this letter into consideration.

Sincerely

Mark Murawski

(No Subject)

From: Jake Pennell (jcpennell13@gmail.com)

To: birdsapeckin@yahoo.com

Date: Thursday, March 4, 2021, 09:07 PM EST

My name is Jacob and I wanted to write a letter on behalf of Micheal Foy. I met Foy when he got stationed out in Japan. Few months after him getting to our unit we became roommates. Me and Foy spent alot of time together and never in my wildest dreams would I have ever thought of the man to cause harm or violence to anyone. He had a mild tempered manner and seemed to see the best in people. Foy was alot older than most of the new guys that show up and with that he did his best to try and take care of the people around him. Putting them over himself on most occasions. Tried to help people in anyway he could wether it be life advice or just work advice. Once we parted ways on me having to leave Japan and go to a new duty station in North Carolina luck be have it Foy ended up out there as well. We were no longer in the same unit but in his new one he was put in a position to run a s-4 billet wich directly impacts the marines welfare around him. I belive that was his calling because he cares for people and wants to help people not bring them down.

Hazel Yarnevich
8762 Riverside Dr.
Brighton, MI 48116

March 1, 2021

Re: Michael Joseph Foy

To The Honorable Judge Tanya S. Chutkan,

I am writing on behalf of my first-born grandson, Michael Foy, I am his maternal grandmother, and I have closely known him his entire life.

I have never known Michael to be anything other than loving, and kind. He has never ever displayed any sort of disrespect, cruelty, or maliciousness. Never acting out in anger. In fact, I can not remember ever having to correct him for any misbehavior in my presence. He has always been clean, neat, polite and responsible, with a warmhearted spirit. All these years he has been an absolute and consistent joy.

I really do not know how to address the charges he is accused of, because it is just so totally and completely in direct conflict from what what I know of him. And I do not know what else to say except that.

Sincerely,

A handwritten signature in cursive script that reads "Hazel Yarnevich".

Hazel Yarnevich

hyarne@yahoo.com
810 231-9850

To whom it may concern,

My name is Linda Schlaff I am writing this character refences for Michael Foy. I hope you find it useful to understand the type of person that Michael is.

I have known Michael for roughly around 23 years. Michael and his parents were our neighbors when our kids were growing up ove r the caose of 16 years. When we heard they were moving in and had a son close to our sons age, we were excited. Michael and our son became good friends and still remain good friends to this day. Our families became very close as we celebrated holidays, birthdays summer outings and weekends together.

When Michael moved in, he had an older group of friends, but included our son with them as they did all the normal things boys their age did like riding bikes, skateboard and bring home snakes. Michael was a good mentor to our son and I am grateful for it. He always took my son under his wing and watched out for him. Michael has been a good role model to our son even to this day. He has been nothing but kind, caring and polite to everyone.

Michael still comes over to visit with us and just to say hello even if our son is not here. We always enjoy his visits. I've been proud of the young man he has grown up to be. The incident on Capitol Hill shocked us when we heard the news. This is not the Michael that we grew up to love and know. He has always been a good kid and never got into any trouble as long as I have known him. He has always been the person to help others. He has always been the person to make people feel welcome and accepted when they have been an outcast. He really is a good person.

Thank you for your time. If you have any questions you can call me.

Linda Schlaff
734)788-6282

Feb 23, 21

Regarding: Michael Foy's (our grandson)
character and demeanor.

From: His grandparents on mother's (Laura)
side.

We've known Michael as kind
cheerful, helpful, respectful, a
dear heart, caring (always for
others).

We've never seen Michael get
angry or in a fight. He is a good
sport. He loves family gatherings,
always polite and very loving
towards us and everyone in our
family. Hope & pray this helps
you understand who Michael is.

Joseph & Yvonne
Kathleen Garovich

March 4, 2021

Fr: Scott Eskelson

1922 Hale Rd.

Standish MI 48658

989-903-5198

RE: Character Reference / Michael Foy

Since I first met Michael with Jeff and Laura, my thoughts are, he is a quiet, shy person. I have needed help around the house, and he came right over to do whatever I ask of him. Michael is pleasant to be around and fun to visit with. I find it completely out of character the events he is accused of.

Sincerely,

Scott Eskelson

Michael Foy

From: Craig James (cvjames30@gmail.com)

To: birdsapeckin@yahoo.com

Date: Thursday, March 4, 2021, 08:35 PM EST

To whom it may concern,

My name is Craig James. I'm Michael's step-brother. I've known Michael for almost a decade. What I have learned about him is that he is one of the most honorable and reliable people I have ever known. He is always quick to help anyone with anything. He always has a smile on his face. That's because he is a good-natured man. Yes, he made some mistakes. But who hasn't? We're all guilty of making mistakes in our lives. I've made plenty myself. I know that he is remorseful about his actions. He will no doubt carry guilt the rest of his life. However, we shouldn't let 30 minutes of bad decisions dictate the rest of his life. He is a young man and has so much of his life ahead of him. If he is given the opportunity, I know he will make the best of it. He's a hard worker, and has strong principles. I know he thought he was standing up for justice. Obviously, he was misguided. He deserves a chance to rectify his mistakes in a way that does not destroy his life any further. I have no doubt that with a fresh start, Michael will grow into a better man.

Thank you.

March 4, 2021

Re: Character reference/Michael Foy

Fr: Linda Eskelson

1922 Hale Rd.

Standish MI 48658

989-239-0046

Michael's mother and stepfather are our neighbors, Laura and Jeff Hartley.

When Michael has visited our home, he has always been kind and courteous to all our guests.

We have, at times needed an extra hand at our home for general maintenance. Michael has jumped right in, picked up the tools and asked what he can do to help.

Michael always joins in the conversations, contributing intelligent, courteous, and kind comments.

Michael is always a welcome guest to our home.

Sincerely,

Linda Eskelson

To Whom It May Concern,

My name is Gary Simon and I have known Michael Foy since he was a little boy. In all those years, I have never seen Michael being mean to anyone. I don't believe I have even seen him mad. It has always been a joy to be around him while he was growing up. As a young man, he has always had a big heart and been a caring person with empathy for everyone. I have only witnessed him being nice to everyone, never seen him being disrespectful to anyone. After being with Michael, I always walked away thinking what a nice young man he is. He is always calm, very approachable and a pleasure to talk to! I have always held him in high esteem because of the person he is!

Gary Simon
18456 Hearthside Lane
Clinton Township, MI 48038
586 265-3972

To Whom It May Concern,

Hello, my name is Alayna Pallis and Michael Foy is my Uncle. Where do I begin? My Uncle Michael has brought nothing but light & lots of love to my life since I can remember. Michael always has a smile on his face no matter how hard life can be. Without a doubt, he's a perfect example of making the best out of situations no matter how hard things may seem. Unfortunately, Michael never really seemed to have it easy, but you'd never know it. However, despite all life has had to throw at him, he always pulls through with his positivity & truly sees the best in everyone and everything. Michael is caring, genuine, and loves his family with his whole heart. He can light up any room he walks into whether it's his quirky jokes or just being your typical silly-loving uncle. Michael is truly one of a kind and people like that are hard to come by these days. Michael has always been different - in a good way. He doesn't use his hardships & things he's been through as an excuse, instead he holds his head high and keeps going. I'm so blessed & grateful to have an Uncle like Michael.

March 6, 2021

Hello,

My Name is Mandy Simon and I am Michael's older sister and I've known Michael all his life from toddler to adult, watching him grow up and blossom into the caring and loving adult has been an absolute pleasure. Not saying there wasn't any bumps in the road in Michael's life and there was but Michael always dealt with it with a level head and open heart and mind, I have never seen Michael lose his temper or become hostile in a situation. He would rather back out of the situation even if he ended up looking like he was scared, he always chose the passive way out. I was so proud of him when he decided to serve our country by joining the Marines. He has always had great pride in our country and always doing the right thing something our Dad has tried to make sure we exercise it in our daily lives with a kind gesture or something as simple as a smile towards a stranger, it could make a difference in that person's day and I've seen this in Michael's daily practices. Michael is an asset to this world by him being who he is, a caring loving human being and we need so many more of these kind of people in the world we live in now. I absolutely love my brother and he is such a special man.

Thank you,

Mandy

March 4, 2021

Dear Sir / Madame,

My name is Sharon James-Foy and I am Michael Foy's step-mother; I am writing this letter as an affirmation to his good character. I met Michael in 2013. In the 8 years between then and now Michael has earned a special place in my heart reserved for those I love and respect. Michael is one of the most caring and respectful young men I have ever met. He always greets me with a hug and genuinely asks how I am doing. His father and I are getting older and Michael is always there for us without hesitation, whenever we need help with something. When he comes to visit us, he always asks if there's anything he can do to help us; whether it's cleaning out the dryer vent or doing the dinner dishes, Michael is ever cognizant of the needs of the people around him. I am proud of Michael and the politeness he displays to everyone he meets; proud of the responsible way he takes care of his commitments and his debts and proud of the positive way he nurtures his relationships with his family.

Michael is on good terms with all of his many family members, and children are naturally drawn to his soft and caring nature. All of his nieces and nephews adore him and they range in age from 3 to 25 years old. One of our grandchildren (Steven) was born while Michael was in the service of the Marines. They finally met shortly after he returned home and 5 year old Steven was instantly enamored with his Uncle Michael.

In closing; I believe that the support and respect of Michael's family and friends speaks volumes about his character and I hope this letter helps the court in making any decisions regarding his future.

Respectfully,

Sharon James-Foy

32808 Merritt Dr

Westland, MI 48185

sarapnicki@gmail.com

734-968-7606

02/28/2021

To Whom It May Concern,

My name is Joseph Mark Foy and I am Michael Foy's Father. I write this as a father with a heavy heart with the scenario that is in front of us all. I am so proud of my son and he has never disappointed me. I want you to hear some of his achievements and real character and let that define who he truly is. All of Michael's life I tried to instill in his life the responsibility of doing the right thing no matter the personal effect it might have on you and not always be a taker but the responsibility of giving back. He was witness to this when I was Michigan's key witness in the prosecutions murder case against Serial Killer Coral Eugene Watts and how it just destroyed our family with all the press and myself falling into a deep depression which caused major problems in all of our lives.

Michael has always been a gentle kind soul. Always avoiding conflict at any cost. He would avoid hanging out with friends because he always said that when ever he hung out with friends, he always felt he had to be on guard like something was going to happen when they would go to the places everyone gathered. After high school Michael felt lost and not sure what he wanted to do with his life. He held a few jobs and then he finally decides he needed to give back by joining the USMC and serve our great nation. He did this proudly till 2019 with an honorable discharge and commendations, he held a job and went back to school to better himself and set himself in the right direction. But then the world was thrown into chaos due to the pandemic which found us all trying to find an island of normality. So, this set him a little off course but still trying.

Since Michael was 11 both him and I caught the mountain biking bug and became mountain bikers. We thourghly enjoyed riding local trails together. But that wasn't enough so we searched out that community and how we could help. We joined The Michigan Mountain Biking Association to help build and maintain all these trails we have enjoyed so much. I wore many hats in the organization and Michael was taught how to build and maintain trails along with me. From that time till he went into the Marines Michael had clocked hundreds of volunteer hours to the organization which helped promote the sport and give back to the community.

During 2020 I was asked to build a mountain bike trail in Rouge Park in the City of Detroit with the city's cooperation. I asked Michael if he would like to become my co-trail coordinator and help me build this trail to benefit the families and kids in the the city who would probably never get the chance to mountain bike. Michael said yes, so all spring, summer and fall of 2020 we built trail. We both recorded over 500 hours of volunteer work by building part of the trail system which included hauling by hand over 30 yards of rock and dirt into the woods. This is just an example of how unselfish Michael is and how he is so kind hearted and always ready to give of himself.

I end this letter by again stating how kind, loving, giving and gentle my son is. On January 6th of 2021 there were so many ingredients into that recipe. I know for a fact my son did not go there with any ill intent to do anyone any harm. I truly believe emotions and bad decisions were the recipe for the day. So please don't let one day define my son I love him dearly and need him.

Thank you,

Joseph M Foy

32808 Merritt

Westland, Mi

48185

734-837-3709



January 24th, 2021

Motor City Mountain Biking Association

22278 Cascade Dr

Novi, MI 48375

Dear Michael,

On behalf of the Motor City Mountain Biking Association, I would like to thank you for your volunteer contributions helping to build and maintain Metro Detroit's mountain bike trail network.

Our records show that Michael Foy contributed 73 hours of boots on the ground trail work at Rouge Park in the City of Detroit in 2020. That time represents approximately \$1,985.00 of value contributed to the City of Detroit according to the Independent Sector organization.

Thanks for helping make Metro Detroit a mountain biking mecca for all our area residents!

Regards,

Loren Konkus, Director

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

UNITED STATES OF AMERICA :

v. : 1:21-CR-108 (TSC)

MICHAEL FOY :

ORDER

Upon consideration of the Defendant's Emergency Motion for Bond Review, it is hereby ORDERED that Mr. Foy is released.

Date: _____

The Honorable Tanya Chutkan
United States District Court for the
District of Columbia