

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

UNITED STATES OF AMERICA

v.

CHRISTOPHER RAY GRIDER,

Defendant

§
§
§
§
§
§
§
§

Case No. 21-CR-00022-KBJ

DEFENDANT’S MOTION TO REVOKE DETENTION ORDER

TO THE HONORABLE KETANJI BROWN JACKSON, UNITED STATES DISTRICT COURT JUDGE FOR THE DISTRICT OF COLUMBIA:

COMES NOW CHRISTOPHER RAY GRIDER, the Defendant in the above styled and numbered cause, by and through undersigned counsel, and, pursuant to 18 U.S.C. § 3145(b), moves this Court to revoke the Order of Detention Pending Trial entered by United States Magistrate Judge for the Western District of Texas, Austin Division, Susan Hightower, on January 27, 2021.

Background and Procedural History

1. Mr. Grider was charged by complaint with the offenses of destruction of government property in violation of 18 U.S.C. § 1361, unlawful entry into a restricted building or grounds in violation of 18 U.S.C. § 1752 (a)(1) and (b), and violent entry and disorderly conduct on Capitol grounds in violation of 40 U.S.C. § 5104(e)(2). (Doc. No. 1). Based on the complaint, Magistrate Judge Robin Meriwether issued an arrest warrant for Mr. Grider on January 20, 2021. (Doc. No. 1 in Case No. 21-

mj-00138).¹

2. The following day, January 21, 2021, Mr. Grider self-surrendered himself to the FBI in Austin, Texas and was placed into the custody of the U.S. Marshals Service. *See* Pretrial Services Report (Amended 1/26/2021) at 1.²
3. The following day, January 22, 2021, Mr. Grider appeared before United States Magistrate Judge for the Western District of Texas, Austin Division, Susan Hightower, for his initial appearance. There, the Government moved for Mr. Grider's pretrial detention under 18 U.S.C. § 3141(f) on the basis that they believed that no condition or combination of conditions would reasonably assure Mr. Grider's appearance, as well as assure the safety of the community or any other person. (Doc. No. 2 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.).³ Accordingly, Judge Hightower ordered that Mr. Grider be detained temporarily and scheduled a detention hearing to be held on January 27, 2021. (Doc. No. 7 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.).
4. On January 25, 2021, the U.S. Pretrial Services Officer assigned to Mr. Grider's case completed her investigation into his case and issued a report, followed with

¹ Mr. Grider was subsequently indicted in the above styled and numbered cause for those and additional, related offenses on January 26, 2021. (Doc. No. 6).

² Pursuant to Local Rule 57.1 for the Western District of Texas, Pretrial Services Reports are made available to Defense Counsel and the Government, however, the reports are not public record, are not to be reproduced or disclosed to any other party and shall remain confidential as provided in Title 18 U.S.C. § 3153(c)(1). Accordingly, Mr. Grider is not including the Pretrial Services Report in this filing and is requesting this Court obtain that report on its own or grant him leave to submit that under seal to this Court to review the information contained therein.

³ Several motions filed by the parties and orders entered by Judge Hightower were not included with the Rule 5 documents filed with this Court under Docket No. 5. Accordingly, Mr. Grider is citing this Court to the filings in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Division where appropriate and including some of the filings as exhibits to this motion.

an amended report on January 26, 2021. Among other things, the report reflected the following:

- a. Mr. Grider is the married father of three sons (ages 14, 10, and 3) who lives with his wife on property they own in Eddy, Texas in the central part of Texas.
 - b. Mr. Grider is self-employed as a winemaker who owns a vineyard and vineyard store in Eddy. He had previously worked as a teacher in various school districts throughout Texas, as well as a security guard, and in retail.
 - c. Mr. Grider served in the United States Army National Guard from May 1999 to October 2001 and in the United States Air Force as a security forces official from October 2001 until May 2004.
 - d. Mr. Grider reported that he has, among other conditions, asthma and is prescribed albuterol to control that condition.
 - e. Mr. Grider's only prior criminal history included an arrest for reckless driving in 2000 when he was 19 years old and an arrest for public intoxication in 2017. In regard to the reckless driving case, he completed 3 months of probation. There was (and is) no further record of any acts of violence or allegations of violence in his criminal history.
5. Based on the foregoing — and not surprisingly given the findings of her investigation — the Pretrial Services Officer recommended that Mr. Grider be released on a \$10,000 unsecured bond with standard conditions of supervision.

6. Mr. Grider followed up to the report with his own memorandum in support of pre-trial release. (Doc. No. 12 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div., *filed under seal*). In that memorandum, Mr. Grider showed that, in addition to the standard conditions recommended by the Pretrial Services Officer:

- a. He was willing to voluntarily restrict his travel to his county of residence and the surrounding counties and would not travel to Washington, D.C. except for court proceedings related to his case;
- b. He had arranged to have his passport delivered to the court for self-surrender;
- c. He had submitted to the court three potential third-party custodians including his wife, and a neighbor; and
- d. He had previously arranged to have all firearms and ammunitions removed from his home.

Id. Additionally, Mr. Grider submitted letters from twenty-two (22) individuals including family members, the pastor of his church, parishioners of his church, neighbors, employees of his winery, fellow business owners in the community, and friends of many years, all who attested that Mr. Grider was a loving and caring individual and was, in no way, a danger to the community or others. *Id.*

7. On January 27, 2021, Judge Hightower held the detention hearing by Zoom videoconference. A transcript of the hearing is attached hereto as Exhibit A.
8. The Government moved forward only on the “grounds of dangerousness,” called

no witnesses to testify, and relied solely on “the nature and circumstances of the offense as laid out in the complaint.” Detention Hearing (hereafter “DH”) at 6.

9. Mr. Grider, after confirming that Judge Hightower had received and reviewed both the Pretrial Services Report and his Memorandum in Support of Pretrial Release, proffered testimony from four witnesses appearing by Zoom:

- a. Ryan Ford, a neighbor to Mr. Grider and a former county commissioner, who would testify that, in the over 7 years that he had known Mr. Grider both in a personal and professional capacity, he had “never seen Mr. Grider exhibit any behaviors or speech that could be even remotely considered threatening or harmful to anyone.” DH at 8.
- b. Michelle Tyler, a friend and professional acquaintance, who would testify that Mr. Grider “has an upstanding character, [and] is a devoted husband and father.” DH at 10.
- c. Christopher Johnson, the “super-max ultra-protective” brother of Mr. Grider’s wife, who would testify that in all the years Mr. Grider and Mr. Johnson’s sister had been together, he saw that Mr. Grider is “not a dangerous person. He is peaceful and he is loving.” DH at 10–11.
- d. Rissa Shaw, a television reporter for KWTX TV News 10 in Waco, Texas, who interviewed Mr. Grider during and immediately after the events of January 6 at the U.S. Capitol. DH at 12–16. Mr. Grider offered, and Judge Hightower admitted a video of her news story from January 6 which included videos from Mr. Grider speaking about what happened that fateful

day. *See* DH at 13; Exhibit B for DH.⁴ Mr. Grider then proffered that Shaw would testify that as she spoke to Mr. Grider to prepare her story, he was clear, calm, and most importantly “did not at any point ever think that he was a threat to anyone” or “engaged in any violent acts.” DH at 14. She would have testified that “there was never any indication of him acting maniacally or espousing radical views, or anything of the sort.” DH at 14. Shaw would also have testified that, aside from her interactions with him that day, she had known Mr. Grider before then and knew him to help others including helping troubled teens from broken homes within their community. DH at 15. Based on everything she knew about Mr. Grider and what she observed, she did not believe that he was a danger to the community in any way. DH at 16.

10. At the conclusion of the hearing, the Government argued that Mr. Grider “was at the front line, breaching a secure location with violence after disrupting Congress performing a constitutional duty.” DH at 17. It then pointed to events that allegedly took place at the Speaker’s Lobby door within the Capitol Building, arguing that Mr. Grider gave a helmet to another person “who had already tried to breach those doors” and ultimately this other person did “smash the doors,” and that Mr. Grider himself tried to push open the doors. *Id.* It then argued that Mr. Grider was part of the “causal chain of events that led to the death of an individual,”

⁴ For ease, Mr. Grider has made a duplicate copy of Exhibit B offered and admitted at the Detention Hearing available here: <https://app.box.com/s/t9wbn40zto4csht79qigt9f9kzl1g5fo>.

namely, Ashli Babbitt. *Id.* Repeatedly, the Government argued that Mr. Grider was an active participant in violent acts. *See* DH at 17, 19.

11. Mr. Grider responded by arguing that there was no evidence that he traveled to Washington, D.C. with the intent to commit any violent act or crime and deeply regretted what occurred that fateful day. DH at 20. As for what happened at the Speaker's Lobby doors, he argued that there was no evidence that he actively participated in trying to force the doors open nor did he do anything that could be construed as contributing to Ms. Babbitt's death. DH at 22.

12. After argument, although Judge Hightower found that Mr. Grider was not a flight risk, she concluded based on the weight of the evidence against him and the nature and circumstances of the alleged offense, the Government had proven by clear and convincing evidence that there was no condition or combination of conditions to ensure the safety of the community. DH at 25–26. She specifically noted, the evidence did not show that he was a “member of the crowd on January 6,” but rather the evidence was strong that he “supplied the helmet used to break the speaker's lobby doors,” and that he “pushed and kicked on those doors in attempt (sic) to breach the House chambers.” DH at 25. She subsequently issued her detention order finding that Mr. Grider was “a leading participant in the offenses charged inside the United States Capitol Building on January 6, 2021.” (Doc. No. 14 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.; Exhibit B [attached]).

13. Shortly after the conclusion of the detention hearing, counsel for Mr. Grider began

searching the internet for the video that the Government had taken “still shots” from and included in their complaint to fit their narrative. (*See* Doc. No. 17 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div. — Defendant’s Motion to Reopen the Detention Hearing; Exhibit C [attached]). Although he had been unable to locate it prior to the detention hearing, counsel for Mr. Grider discovered the video located at the following web address: <https://www.youtube.com/watch?v=PfiS8MsfSF4>. *Id.* As Mr. Grider submitted in his motion to reopen the detention the hearing, contrary to Judge Hightower’s conclusion and the representations made by the Government at the detention hearing, in the portions of that video purportedly depicting Mr. Grider, he did not appear to be a “leading participant” and, more importantly, did not appear to be engaged in a “forceful and continued attempt to breach the doors to the Speaker’s Lobby.” *Id.* Mr. Grider further expressed concerns “about the Government’s effort to show [Judge Hightower] only the pieces of the puzzle needed to fit their narrative.” *Id.*

14. The following day, January 28, 2021, Judge Hightower issued a written order denying the motion to reopen the detention hearing. (Doc. No. 18 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.; Exhibit D [attached]).

In explaining her decision, Judge Hightower noted the following:

This information has no material bearing on the factors on which the detention order was based: the nature and circumstances of the offenses charged, including whether the offense is a crime of violence; the weight of the evidence against Mr. Grider; and the nature and seriousness of the danger to the community that would be posed by his release. 18 U.S.C. § 3142(f). Stated differently, whether or not he led or encouraged

others in the alleged commission of the offenses charged, there is extremely strong evidence that Mr. Grider *participated at the forefront* in the events that led to the fatal shooting inside the Capitol Building on January 6, 2021.

Id. (emphasis added).

15. Despite this ruling, counsel for Mr. Grider continued to investigate the incident and locate additional evidence to correct the false belief maintained by the Government and Judge Hightower.

16. On February 1, 2021, Mr. Grider filed his Second Motion to Reopen the Detention Hearing. (Doc. 22 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.; Exhibit E [attached]). Mr. Grider noted that since federal agents had seized his cell phone, he did not have immediate access to the photographs and videos contained on it at the detention hearing. *Id.* His counsel, subsequent to the detention hearing, however, was able to locate backup copies of the files on one of Mr. Grider's computers. *Id.* The videos reflect the following:

- a. In a video file titled, IMG_1878.m4v, Mr. Grider is seen walking up to an entrance on the ground level of the Capitol building and walking through *an open door* along with hundreds of other individuals. While other individuals nearby shattered glass windows, there is no obvious indication that the door which Mr. Grider walked through along with hundreds of others was opened by force and there was clearly no forcible entry made by Mr. Grider.
- b. In a video file titled, IMG_1883.m4v, Mr. Grider is seen walking up to the

entrance to the Speaker's Lobby where multiple Capitol Officers are standing guard. Mr. Grider did not yell, shout, or make any threatening comments to them. Instead, he is heard telling the officers, "People are going to get crushed on that other side if they don't open that door" (referring to another area from where he had just come from). He was pleading with the officers, telling them, "There are two cops getting crushed." Others can then be seen walking up and banging on the doors, but not Mr. Grider. Eventually, more and more people began approaching the door and, as space became confined, the video no longer captured any images. However, the audio still recorded and, at no time, could Mr. Grider be heard making any threatening comments or directing anyone to try and break open or damage the doors or do anything else. The video can be seen here: <https://app.box.com/s/1efe2q4mloibgpbhjrzqb48bnjxvrci2>.

- c. In addition to the photographs and videos obtained from Mr. Grider's phone, counsel for Mr. Grider also, subsequent to the detention hearing and his first motion to reopen the detention hearing, located an additional YouTube video showing what takes place at the Speaker's Lobby from a different angle: <https://youtu.be/AZ9oThRuMVs>. Worth noting in this video is that, as officers were moving away from the door, Mr. Grider was following them away from the door as well while others attempted to forcefully open it. Further, when the person who was presumably Ashli Babbitt began attempting to climb through the window to the Speaker's Lobby, Mr. Grider

had his back turned and was continuing his attempt to move away from the doors.

17. All this new material corroborates what Mr. Grider has maintained all along. Contrary to the finding by Judge Hightower, his presence at the Capitol was not one of a person who intended to inflict harm on anyone or commit any violent acts. He was not a “leading participant” nor did he “participate at the forefront of the events that led to the fatal shooting inside the Capitol Building.”⁵

Legal Standards

18. “To begin with, it is clear beyond cavil that, before a guilty plea or conviction, ‘liberty is the norm and detention prior to trial or without trial is the carefully limited exception.’” *United States v. Wiggins*, No. 19-CR-258-KBJ, 2020 WL 1868891, at *3 (D.D.C. Apr. 10, 2020)(quoting *United States v. Salerno*, 481 U.S. 739, 755, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987)).

19. One of those exceptions applicable here is where a court “finds that no condition or combination of conditions 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(e)(1) (West 2020). To make this determination, a court must evaluate four factors: (1) “the nature and circumstances of the offense charged”; (2) “the weight of the evidence against the person”; (3) “the history and characteristics” of the defendant; and (4) “the nature and seriousness of the danger to any person or the

⁵ Judge Hightower denied this second motion without considering the merits of the new evidence presented, finding that she no longer had jurisdiction over the matter. (Doc. No. 25 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.).

community that would be posed by the person's release." 18 U.S.C § 3142(g) (West 2020). "Consequently, a criminal defendant can only be detained pending trial consistent with the Bail Reform Act if, on balance, those four factors weigh in favor of detention, such that the court can confidently conclude that no condition or combination of conditions 'will reasonably assure the appearance of the person as required and the safety of any other person and the community.'" *Wiggins*, 2020 WL 1868891, at *4 (quoting 18 U.S.C. § 3142(e)(1)).

20. "If a person is ordered detained by a magistrate judge . . . the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order." 18 U.S.C. § 3145(b) (West 2020). The motion shall be determined promptly and this Court's review of the magistrate's order of detention is reviewed *de novo*. *United States v. Hunt*, 240 F. Supp. 3d 128, 132 (D.D.C. 2017).

Danger to the Community is not Sufficient to Order Detention

21. At the outset, while Mr. Grider disputes Judge Hightower's determination that no condition or combination of conditions will reasonably assure the safety of any other person and the community in his case, this Court must consider whether that finding alone is sufficient to warrant detention. Stated differently, although Judge Hightower found that Mr. Grider was not a flight risk, could she legally order him detained solely because she found he was a danger to the community?
22. As one federal magistrate judge has recently recognized, "The law is unclear regarding whether a judge may detain a defendant in such a case solely because the defendant is such a danger to the community that no conditions can reasonably

assure public safety.” *United States v. Gibson*, 384 F. Supp. 3d 955, 960 (N.D. Ind. 2019). In *Gibson*, Judge Kolar noted multiple opinions that had interpreted Section 3142(f) as *not* permitting detention solely on a finding of dangerousness to the community. *Id.* at 960–62 (citing *United States v. Himler*, 797 F.2d 156, 160 (3d Cir. 1986); *United States v. Chavez-Rivas*, 536 F. Supp. 2d 962 (E.D. Wisc. 2008); *United States v. Byrd*, 969 F.2d 106, 109–10 (5th Cir. 1992); *United States v. Ploof*, 851 F.2d 7 (1st Cir. 1988)); *but cf.* *United States v. Holmes*, 438 F. Supp. 2d 1340 (S.D. Fla. 2005); *U.S. v. Ritter*, 2:08PO00031-53, 2008 WL 345832, at *2 (W.D. Va. Feb. 6, 2008)). This interpretation is consistent with what the Fifth Circuit recently stated when it noted that “the imposition of ‘preventive [pretrial] detention’ is ‘abhorrent to the American system of justice.’” *ODonnell v. Harris Cty.*, 892 F.3d 147, 158 (5th Cir. 2018).

23. Mr. Grider submits that Judge Hightower’s order on its face was invalid as, based on the foregoing authority, Section 3142(f) does not permit detention solely on a finding of dangerousness to the community. *See Gibson*, 384 F. Supp. 3d at 962–64 (noting that to interpret otherwise would run afoul of the constitutional concerns under the Due Process Clause of the Fifth Amendment and the Eighth Amendment’s ban on excessive bail as discussed in *Salerno*).

There is No Clear and Convincing Evidence of Danger to the Community

24. Even if this Court were to interpret Section 3142(f) as permitting a criminal defendant’s detention solely on the grounds that they are a danger to the community, Mr. Grider would submit that nothing about him, the nature and circumstances

of the offenses charged, or the weight of the evidence against him establishes *clearly and convincingly* that he is a danger to the community.

25. Mr. Grider is not a member of the Three Percenters, Proud Boys, Oath Keepers or any other right-wing extremist group. He does not subscribe to the beliefs of QAnon or other conspiracy theories related to the government. People belonging to and affiliated with these groups, along with several others who were not, reportedly came to Washington, D.C. on January 6, 2021 with the intent to do harm to our Nation's Capitol and to lead an insurrection.⁶ Mr. Grider was not one of those people.

26. As reflected in the Pretrial Services Report and his Memorandum in Support of Pretrial Release, Mr. Grider is a loving father of three young boys, devoted husband, and owner of a vineyard and winery in Central Texas. He has never been accused of a single violent act or crime in his entire life.

27. The multiple letters presented to Judge Hightower and the witnesses who appeared before her repeatedly affirmed that Mr. Grider is a non-violent person who loves and cares for his family and people throughout his community, accounts given with a verifiable basis for stating so based on their experience and knowledge of him.

28. It cannot be overlooked that, even though the United States Pretrial Services Of-

⁶ Funke, Daniel, "FBI investigation of Capitol riot focuses on far-right groups," PolitFact, January 20, 2021 <available at <https://www.politifact.com/article/2021/jan/20/fbi-investigation-capitol-riot-focuses-far-right-g/>> (last visited January 31, 2021).

fice recommended Mr. Grider's release on an unsecured bond with standard conditions of release, he was willing to go above and beyond and voluntarily abide by additional conditions needed to assure the court that he was not a flight risk or danger to the community.

29. The events of January 6, 2021 at the United States Capitol Building were undoubtedly tragic and shocking. As Mr. Grider stated, he simply went to Washington, D.C. because "The President asked people to come and show their support. I feel like it's the least we could do. That's kinda why I came from Central Texas all the way to D.C." *See* Exhibit B to DH. He never expected, nor anticipated that it would turn into what it did.

30. The Government only presented limited bits of evidence to piece together a narrative implying that Mr. Grider was a violent protestor who forced his way into the Capitol Building, then tried to force his way into the House Chamber, was at the forefront of the push to breach the Speaker's Lobby doors, and ultimately part of the causal chain of events that led to the death of Ashli Babbitt. Evidence discovered by counsel from Mr. Grider subsequent to the detention hearing — exculpatory evidence presumably in the possession of the Government from the outset — proves quite the opposite.

- a. Videos from Mr. Grider's phone show him walking up to the Capitol Building along with hundreds of others. Mr. Grider, like several others, simply followed a group through an open door where several others were already inside and roaming around.

- b. As discussed *supra*, an additional video from Mr. Grider's phone, a video file titled, IMG_1883.m4v, shows him walking up to the entrance to the Speaker's Lobby where multiple Capitol Officers are standing guard. Mr. Grider made no threatening comments. He is not heard directing anyone to try and break open the doors. Rather, he expressed concern for others including other officers who were "getting crushed."
- c. While the Government included in its complaint a copy of a still shot from a video available on YouTube with Mr. Grider's hand on the Speaker's Lobby door to imply he was trying to force the door open, when one watches the *entire* video and others available and referenced in his motions to reopen the detention hearing, it is apparent what Mr. Grider's true intentions were: to get out of an escalating situation. As shown in the video located at <https://youtu.be/AZ9oThRuMV8>, as officers moved away from the Speaker's Lobby door, Mr. Grider followed them away from the door as well. Further, when the person who is presumably Ashli Babbitt began climbing through the window to the Speaker's Lobby, Mr. Grider had his back turned and was continuing his attempt to move away from the doors.

- 31. There is no evidence that Mr. Grider conspired with others to do harm at the Capitol. There is no evidence that he threatened any public officials. There is no evidence he entered either of the Legislative Chambers or the private offices of any legislators. There is no evidence he used any force against any public servant.
- 32. Mr. Grider deeply regrets what took place on that tragic day at the United States

Capitol. But nothing about his alleged acts, his history, and characteristics establishes that he is of such a danger to the community that he needs to be detained pending trial in his case.⁷ The evidence presented by him, on the contrary, establishes by clear and convincing evidence that he is *not* a danger to the community.

Mr. Grider's Detention During the COVID-19 Pandemic

33. This Court has recognized “the unprecedented magnitude of the COVID-19 pandemic and the extremely serious health risks that it presents for all of us, including, and perhaps especially, those individuals who are unfortunately presently detained in federal custody.” *Wiggins*, 2020 WL 1868891, at *8. Although since this Court’s ruling in *Wiggins*, multiple vaccines have been developed to contain the spread of COVID-19, the virus continues to spread — and kill — at an alarming rate. Furthermore, scientists are now concerned about mutations of the virus spreading at a much-higher rate.⁸

34. This Court has recognized the need for courts to “determine, on an *ad hoc*, case-by-case basis, whether [a] detained defendant who files a motion for release on the

⁷ Cf. e.g. *United States v. Wilmar Jeovanny Montano Alvarado*, Case No. 1:21-mj-00169-GMH-1, granted pretrial release in the Southern District of Texas, Houston Division, Case No. 4:21-mj-00207 (where defendant is charged with *inter alia* Assaulting Resisting or Impeding Certain Officers or Employees); *United States v. Tam Dinh Pham*, Case No. 1:21-mj-00116-ZMF, granted pretrial release in Southern District of Texas, Houston Division, Case No. 4:21-mj-00134-1 (where defendant, a Houston Police Department, charged with Violent Entry and Disorderly Conduct on Capitol Grounds); *United States v. Joshua Loller*, 1:21-mj-00045-ZMF-1, granted pretrial release in Southern District of Texas, Houston Division, Case No. 4:21-mj-00086 (where defendant, a Houston Police Department, charged with Violent Entry and Disorderly Conduct on Capitol Grounds)

⁸ See Johnson, Carolyn Y. and Wan, William, “Mutated Virus May Reinfect People Already Stricken Once with Covid-19, Sparking Debate and Concerns,” *Washington Post*, February 5, 2021 <available at <https://www.washingtonpost.com/health/2021/02/05/virus-variant-reinfection-south-africa/>> (last visited February 8, 2020).

basis of COVID-19 can be let out jail consistent with the dictates of the law.” *Wiggins*, 2020 WL 1868891 at *8.

35. Section 3142(g)(3)(A) requires a court to consider the physical and mental conditions of a person when deciding whether there are conditions of release 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(g)(3)(A) (West 2020).

36. As reflected in the Pretrial Services Report, Mr. Grider suffers from asthma and is prescribed and takes albuterol to help keep his asthma under control. The Centers for Disease Control has identified people with moderate to severe asthma as having a “higher risk of getting very sick from COVID-19.”⁹

37. To “prepare for COVID-19,” the CDC has recommended the following for people with moderate to severe asthma:

- Make sure that you have at least a 30-day supply of your medicines.
- Take everyday precautions like washing your hands, avoiding close contact, and staying at least 6 feet (about 2 arm lengths) from other people.
- Wear masks in public settings and when around people who don’t live in your household.¹⁰
- Wash your hands often with soap and water for at least 20 seconds or use hand sanitizer that contains at least 60% alcohol.

38. Despite these recommendations, Mr. Grider has experienced the following since

⁹ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/asthma.html> (last visited February 8, 2020).

¹⁰ In the multiple videos submitted as evidence in this case, Mr. Grider was wearing a mask.

he has been in federal custody:

- He has not consistently received his albuterol and has certainly not been provided with “at least a 30-day supply” of that medication.
- There have been multiple instances where he has been in close contact with other inmates.
- There have been multiple instances when other inmates around him have not worn masks.
- There have been multiple instances where he has not been provided access to soap and water or hand sanitizer.

39. Applying the *ad hoc*, case-by-case approach that this Court has adopted, Mr. Grider submits that the current health crisis resulting from the COVID-19 virus and its variants, combined with his personal health condition of suffering from asthma, require this Court to strongly consider and order his release from custody.

Conditions of Release

40. There are several conditions of release that have not been previously recommended that Mr. Grider is voluntarily willing to abide by to guarantee this Court that he will not be a flight risk or danger to the community including, but not limited to,

- Home curfew with GPS ankle monitoring;
- Daily “check-in’s” with local law enforcement¹¹;

¹¹ As noted in one of the letters submitted along with his Memorandum in Support of Pretrial Release, Mr. Grider has previously donated and helped gather donations for the local police department, the Bruceville-Eddy Police Department, and has no doubts that they will assist this Court in ensuring that Mr. Grider follows any conditions of release.

- Consent to search his home, business, and vehicles for contraband; and,
- Psychological assessment and treatment, if necessary.

Conclusion

Mr. Grider did not come to Washington, D.C. to do harm or participate in an insurrection. He did not come here to do violence. He never anticipated that what occurred that fateful day would have occurred and he wishes that it never did.

Despite whatever the evidence shows he did or did not do at the United States Capitol, the fact remains is that Mr. Grider is not a violent or dangerous person. Every action of his life proves that and nothing that occurred in that maelstrom in the Capitol Building on that fateful day proves differently. He no longer cares about politics or who is President of the United States. All he cares about is what has always mattered most to him: his family, his business, his community, and his church. It is time to let him return to them and, accordingly, he is respectfully requesting this Honorable Court revoke his order of detention and order him to be released on any conditions this Court deems appropriate.

Date: February 11, 2021

Respectfully Submitted,

MAYR LAW, P.C.

by: /s/ T. Brent Mayr
T. BRENT MAYR
Texas State Bar Number 24037052
bmayr@mayr-law.com

5300 Memorial Dr., Suite 750
Houston, TX 77007
Telephone: 713-808-9613
Fax: 713-808-9613

ATTORNEY FOR THE DEFENDANT,
CHRISTOPHER RAY GRIDER

Admitted to Appear Pro Hac Vice

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was sent to Counsel for the Government on February 11, 2021, via CM/ECF and email.

/s/ T. Brent Mayr
T. BRENT MAYR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

CHRISTOPHER RAY GRIDER,

Defendant

§
§
§
§
§
§
§
§

Case No. 21-CR-00022-KBJ

ORDER ON
DEFENDANT'S MOTION TO REVOKE DETENTION ORDER

On this day came to be heard the Defendant, Christopher Ray Grider's Motion to Revoke Detention Order requesting that this Court revoke the Order of Detention Pending Trial entered by Magistrate Judge for the Western District of Texas, Austin Division, Susan Hightower entered on January 27, 2021. After considering the same, this Court hereby ORDERS that the motion be

_____ GRANTED. Conditions of release are to follow.

_____ DENIED, to which the Defendant excepts.

SIGNED AND ENTERED ON _____.

HON. KETANJI BROWN JACKSON
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA

v.

CHRISTOPHER RAY GRIDER,

Defendant

§
§
§
§
§
§
§
§

Case No. 21-CR-00022-KBJ

**EXHIBITS TO
DEFENDANT'S MOTION TO REVOKE DETENTION ORDER**

- | | |
|------------------|--|
| Exhibit A | Transcript of Detention Hearing Before United States Magistrate Judge for the Western District of Texas, Austin Division, Susan Hightower, on January 27, 2021 |
| Exhibit B | Order of Detention (Doc. No. 14 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.) |
| Exhibit C | Defendant's Motion to Reopen Detention Hearing (Doc. No. 17 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.) |
| Exhibit D | Order denying Defendant's Motion to Reopen Detention Hearing ((Doc. No. 18 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.) |
| Exhibit E | Defendant's Second Motion to Reopen Detention Hearing (Doc. 22 in in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.) |

Exhibit A

Transcript of Detention Hearing Before United States Magistrate Judge for the Western District of Texas, Austin Division, Susan Hightower, on January 27, 2021

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION

4 UNITED STATES OF AMERICA) Docket No. A 21-MJ-033(1) SH
5)
6 vs.) Austin, Texas
7)
8 CHRISTOPHER RAY GRIDER) January 27, 2021

9 TRANSCRIPT OF VIDEOCONFERENCE DETENTION HEARING
10 BEFORE THE HONORABLE SUSAN HIGHTOWER
11
12
13

14 APPEARANCES:

15 For the United States: Mr. G. Karthik Srinivasan
16 Assistant U.S. Attorney
17 903 San Jacinto Boulevard,
18 Suite 334
19 Austin, Texas 78701

20 For the Defendant: Mr. T. Brent Mayr
21 Mayr Law, P.C.
22 5300 Memorial Drive, Suite 750
23 Houston, Texas 77007

24 Transcriber: Ms. Lily Iva Reznik, CRR, RMR
25 501 West 5th Street, Suite 4153
Austin, Texas 78701
(512)391-8792

Proceedings reported by digital sound recording,
transcript produced by computer aided-transcription.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Direct Cross Redirect Recross

Witnesses:

(None)

E X H I B I T S

Offered Admitted

Government's

(None)

Defendant's

#B

13

14

1 (Proceedings commence at 1:35 p.m.)

2 THE CLERK: Court is now in session for a
3 detention hearing: 21-MJ-33, United States vs.
4 Christopher Ray Grider.

5 MR. SRINIVASAN: Good afternoon, your Honor.
6 Karthik Srinivasan for the government.

7 MR. MAYR: Good afternoon, your Honor.
8 Brent Mayr on behalf of Mr. Grider.

9 THE COURT: Good afternoon. Thank you to
10 everyone.

11 I have a few announcements to make as we get
12 started today. We have large number of participants
13 attending today, and I need to remind everyone that all
14 participants are -- cannot record, photograph, broadcast,
15 or televise any part of this proceeding. Any violation of
16 this direction is punishable as contempt of court.

17 All members of the public who are attending are
18 asked to remain muted and with their video off. The Court
19 will unmute and turn on the video for anyone testifying.
20 Anyone who attempts to disrupt this proceeding will be
21 removed. And we are being recorded. The Court is making
22 an audio recording today.

23 So with all that said, this matter comes before
24 the Court on the request of the government to detain the
25 defendant, Christopher Ray Grider, pending trial. And

1 we're holding our proceeding by video conference because
2 due to the COVID-19 pandemic, holding the proceeding in
3 person would present a serious health risk to you, Mr.
4 Grider, to the other detainees, to the attorneys, and the
5 court staff involved.

6 So I'll ask you first, Mr. Grider, have you
7 discussed with Mr. Mayr proceeding by video conference
8 today?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And do you consent to proceed with
11 this hearing by video conference?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Mr. Mayr, do you consent to proceed
14 by video conference today?

15 MR. MAYR: I do, your Honor.

16 THE COURT: And, Mr. Srinivasan, on behalf of the
17 government, do you consent to proceed by video conference?

18 MR. SRINIVASAN: Yes, your Honor.

19 THE COURT: So I find that both parties consent
20 to proceed by video conference today.

21 I also need to remind counsel that as required by
22 Rule 5(f) of the Federal Rules of Criminal Procedure, the
23 United States is ordered to produce all exculpatory
24 evidence to the defendant pursuant to Brady vs. Maryland
25 and its progeny. Not doing so in a timely manner may

1 result in sanctions that include the exclusion of
2 evidence, adverse jury instructions, dismissal of charges,
3 and contempt proceedings.

4 So in considering the government's detention
5 request today, courts are guided by several general
6 principles. First, that the defendant, Mr. Grider, you're
7 entitled to the presumption of innocence at all times.
8 Under the Bail Reform Act, pretrial detention is an
9 exceptional step. A defendant must be released before
10 trial unless I find that no condition or combination of
11 conditions exist that will reasonably assure your
12 appearance, if the government seeks detention based on the
13 risk of flight, or reasonably assure the safety of any
14 other person in the community, if the government seeks
15 detention based on you being a danger to the community,
16 Mr. Grider.

17 That Bail Reform Act requires that the least
18 restrictive conditions be imposed that are necessary to
19 provide those reasonable assurances. If I can't find that
20 any condition or combination of conditions will reasonably
21 assure your appearance as required, or the safety of the
22 community, that I'm required by the Bail Reform Act to
23 order you held in custody.

24 So with that said, I'll ask Mr. Srinivasan: How
25 does the government intend to proceed today?

1 MR. SRINIVASAN: Your Honor, we are seeking
2 detention on the grounds of dangerousness.

3 THE COURT: Okay. Thank you.

4 And are you prepared to call -- are you
5 proceeding by witness or a proffer?

6 MR. SRINIVASAN: By proffer, your Honor. We're
7 relying on the nature and circumstances of the offense as
8 laid out in the complaint.

9 THE COURT: Okay. So the government has no
10 witnesses to call.

11 MR. SRINIVASAN: That's correct, your Honor,
12 although I would note that to the extent the Court has
13 additional questions, FBI Special Agent Jeanette Taylor is
14 on the line here, although we were not planning to call
15 her.

16 THE COURT: Okay. Thank you very much. So then,
17 that we'll proceed with you, Mr. Mayr.

18 Does the defense have any evidence that it would
19 like to present at this time?

20 MR. MAYR: Yes, your Honor. Before I proceed
21 with actual evidence, I just want to make sure that you've
22 had an oppor -- we're on the same page in terms of what
23 has been reviewed by the Court.

24 First and foremost, this court has received and
25 reviewed the amended Pretrial Services report recommending

1 release on certain conditions. Is that correct?

2 THE COURT: Yes.

3 MR. MAYR: Okay. I also, earlier this morning,
4 filed a confidential memorandum on pretrial release,
5 supplied a copy of that to the government after conferring
6 with them. And I just want to confirm that you have had
7 an opportunity to review that and the several letters that
8 I included, in addition to that memorandum.

9 THE COURT: Mr. Mayr, I've reviewed the entire
10 submission.

11 MR. MAYR: Thank you very much, your Honor. I
12 appreciate that.

13 Then in addition to those -- in addition to
14 what's set out there, your Honor, I would -- I have four
15 witnesses that I would proffer testimony on. I would
16 start with Mr. Ryan Ford, who was present in the Zoom
17 room. If he could be at least just permitted to show his
18 face and just acknowledge the Court, and then, I can
19 explain what I would proffer his testimony to be.

20 THE COURT: Certainly. We're proceeding -- we
21 will turn on -- as any witnesses identified, we'll turn on
22 their camera and unmute them. So it might take just a
23 moment, but I'll ask the courtroom deputy to do so. The
24 last name is -- can you spell it, please? Is it F-O-R-D?

25 MR. MAYR: Like the car. Ryan Ford.

1 THE COURT: Okay.

2 MR. MAYR: Okay, your Honor. At least on my
3 screen, he's directly below me, but that there is Ryan
4 Ford. Your Honor, by proffer, I would -- Mr. Ford would
5 testify that he is a neighbor and close friend of Mr.
6 Grider's. He's the former county commissioner for Falls
7 County. So he -- to say that he has his pulse on the
8 community is a pretty good one.

9 He would testify that he and Mr. Grider have been
10 neighbors for over seven years, and during that time, he's
11 never done anything but work at his business and support
12 his family. It is his opinion that those are -- that his
13 family and his business are his main and sole priorities.
14 Without him present, all of those stand to fail. He's
15 lived next to him, he's worked with him to help him grow
16 his business, which as you are familiar with from having
17 reviewed the materials is the winery.

18 In doing that, Mr. Ford would testify that he's
19 never seen Mr. Grider exhibit any behaviors or speech that
20 could be even remotely considered threatening or harmful
21 to anyone. In fact, he does everything to avoid
22 conflicts, even with his own employees. He's more -- he's
23 more inclined to cut back someone's hours rather than
24 terminate them simply for wanting to avoid a confrontation
25 with his employees. Mr. Ford would testify that he's --

1 that Mr. Grider's a good Christian man, a loving, caring
2 husband and a father.

3 Thank you, Mr. Ford. That's all I would have for
4 Mr. Ford.

5 THE COURT: Okay. Thank you, Mr. Ford.

6 MR. MAYR: The next witness that I would proffer,
7 your Honor, is Michelle Tyler, who is also present on
8 Zoom.

9 THE COURT: I can see Ms. Tyler. Thank you.

10 MR. MAYR: Thank you. Thank you, your Honor.

11 Ms. Michelle Tyler is zooming in all the way from
12 Pensacola, Florida. However, I would proffer that she
13 would testify that she knows Mr. Grider. She has known
14 him for close to 10 years. Knew him from when they used
15 to sell their wares together in a farmers market,
16 eventually working together, they developed a close
17 personal relationship, Mr. Grider and his family with Ms.
18 Tyler and her family.

19 You have already reviewed a letter from her
20 husband, Matthew Tyler. But Michelle Tyler would really
21 by way of proffer, would convey to the Court the real
22 special bond that she sees with Mr. Grider and his
23 children. Mr. Grider's son and Ms. Tyler's son are both
24 -- have been best friends. Even though they now live in
25 Florida, they still will get together at least twice a

1 year, go on camping trips.

2 She could also attest to not only seeing him in a
3 -- on a personal context, but in a business context as she
4 continues to sell her goods through his business. She
5 would testify that he has an upstanding character, is a
6 devoted husband and father, but also is committed to his
7 business and his community. His -- she would testify that
8 he's ambitious, driven to succeed, and his dedication to
9 accuracy and creative vision is reflected clearly in his
10 success.

11 She knows beyond any doubt that he holds deep
12 respect for his responsibilities and has always stood firm
13 in his obligations. And that's all that I would have for
14 Ms. Tyler.

15 THE COURT: Thank you, Ms. Tyler.

16 MR. MAYR: The next witness I would proffer, your
17 Honor, is Christopher Johnson. He is C. Johnson on the
18 Zoom video and he -- C. Johnson. Your Honor, that's Mr.
19 Christopher Johnson. He is Mr. Grider's brother-in-law.
20 He lives down in the Houston area. He is a senior
21 engineer with Varco National, and he wouldn't be able to
22 be in court, anyway, because he's currently recovering
23 from COVID.

24 Your Honor, by way of proffer, I really enjoyed
25 talking with Mr. Johnson and felt that this court needed

1 to really give much consideration to what he has to say
2 because he is the big brother of Mr. Grider's wife,
3 Crystal, who is present in the Zoom room and you've
4 reviewed -- you've seen reference to her.

5 I'm a big brother, he's a big brother, and so, we
6 -- in talking with him, he talked about how he was -- when
7 it comes to protective brothers, he is super-max ultra
8 protective, and he wasn't going to just let anyone be a
9 part of his little sister's life. He is solely committed
10 to protecting her. It's very im -- he loves her to death
11 and wouldn't -- never want her to be with anyone that
12 would in any way endanger her.

13 He would testify that in getting to know Mr.
14 Grider that he felt comfortable with him. He felt safe
15 with him. He trusts Chris and he felt confident that he
16 would treat her with respect and he's proven that. He
17 would testify that over all the years that Mr. Grider and
18 his wife, Crystal, have been together, Mr. Johnson has
19 come to love and appreciate how Mr. Grider loves and cares
20 for his little sister as much as he does. I think it's
21 relevant because it shows for someone who would care the
22 most about someone's safety, okay, he knows that Chris is
23 not a dangerous person. He is peaceful and he is loving,
24 and he is willing to come before you and testify to that
25 under oath, but I will offer by way of a proffer.

1 That's all I have on Mr. Johnson.

2 THE COURT: Thank you, Mr. Johnson.

3 MR. MAYR: Finally, your Honor, the last witness
4 I would proffer is going to be Rissa Shaw. She is Rissa
5 Shaw on the Zoom screen.

6 THE COURT: Hi, Ms. Shaw. I see you.

7 MR. MAYR: Thank you.

8 Judge, this is a very interesting witness that I
9 would be proffering. Rissa Shaw -- I say it's
10 interesting. As you may recall in reading the complaint
11 in this case, specifically paragraph 10, the complaint by
12 the agent in this case makes reference to a story that
13 aired on KWTX TV News 10, the local media station in Waco,
14 Texas that featured Grider on one of his segments.

15 Your Honor, Ms. Shaw is the reporter who
16 interviewed Mr. Grider while he was allegedly in the
17 capitol. I have the video -- I have the video of her
18 story that I would like to publish for the Court so that
19 you could see what her story reported, and then, I can by
20 way of proffer add a little bit beyond what is reflected
21 in the story.

22 So with the Court's permission, I would like to
23 -- and I'm sorry I didn't make arrangements to handle this
24 beforehand, but however you would like for me to do that,
25 I would like to mark and offer what I'm going to call

1 Defendant's Exhibit B, since Exhibit A was attached to the
2 memorandum. I'm going to call this Exhibit B, and it is
3 going to be the video recording of Ms. Shaw's story that
4 was published and is referenced in the complaint.

5 THE COURT: Mr. Srinivasan, any objection?

6 MR. SRINIVASAN: Your Honor, I've not seen this
7 particular clip, but based on that representation, I have
8 no reason to object at this point. But I would reserve
9 just in case something comes up after viewing it.

10 THE COURT: Certainly. And since I haven't even
11 seen it either, is it something that you're able to play
12 at this time and share your screen?

13 MR. MAYR: I am. That exactly what I was
14 intending to do and I'm setting up to do with your
15 permission, your Honor.

16 THE COURT: That's fine. Take your time and
17 afterwards, we'll ask Mr. Srinivasan if he needs to lodge
18 any objection.

19 MR. MAYR: Thank you. And for the record, your
20 Honor, I will go ahead and publish the -- this will be
21 Defendant's Exhibit B, and I will waive any transcription
22 of this, if that is so necessary.

23 (Audio file played.)

24 THE COURT: Could you just pause for a moment,
25 Mr. Mayr, and see -- I'm seeing it and I can hear it a

1 little bit. But so I can hear it better and for the
2 record, is there any way to increase the volume?

3 MR. MAYR: That's exactly what I'm doing right
4 now. One moment, your Honor.

5 THE COURT: Thank you.

6 MR. MAYR: Okay. Now I'm ready to share.

7 (Audio file played.)

8 THE COURT: Okay. So let me ask Mr. Srinivasan:
9 Is there any objection to the -- to Mr. Mayr's offer of
10 this Exhibit B into evidence?

11 MR. SRINIVASAN: No objection, your Honor.

12 THE COURT: Okay. Thank you. It's admitted, Mr.
13 Mayr.

14 MR. MAYR: Judge, in addition to that, Ms. Shaw
15 would talk about everything leading up to that story. She
16 would testify that like most news stories, there's a lot
17 more information that she obtains, but what she would
18 convey to the Court is that she was overwhelmed by what
19 was happening and received -- and was contacted by Mr.
20 Grider and felt a need to report what was going on.

21 In talking with Mr. Grider, he was clear, he was
22 calm. She did not at any point ever think that he was a
23 threat to anyone. She did not -- she did not think that
24 he was engaged in any violent acts. She testified -- she
25 would testify that in talking with him, she never -- it

1 never even really crossed her mind that he was committing
2 any crime. It was her belief that he was reporting what
3 he saw, but there was never any indication of him acting
4 maniacally, or espousing radical reviews, or anything of
5 the sort. He was very clear, calm, lucid, and really felt
6 that his only purpose was to just report and document what
7 was taking place.

8 She would proffer and testify that she knows and
9 has a relationship with Mr. Grider and Mrs. Grider. She
10 has done previous stories on their winery there in
11 Bruceville-Eddy. And she has always been just incredibly
12 impressed by Mr. Grider and what he is and who he does.

13 She would testify that in getting to know Mr.
14 Grider and his wife that they are Texans through and
15 through, and they are in no way a flight risk or a danger
16 to the community. They -- she would testify that he know
17 -- she knows him to be -- provide people many
18 opportunities in the greater Houston area. I think you
19 probably already read about some of those people that he's
20 helped out in the Waco area.

21 She's seen firsthand former public school
22 teachers -- Mr. Grider helping former school teachers,
23 helping troubled teens from broken homes, bringing him out
24 to his business, bringing him out to his property to help
25 them earn a living. And she would testify that she

1 believes that he is -- that he is a respectful person and
2 that he believes in the institutions of our country. She
3 would respectfully request just based on everything that
4 she actually saw and observed, she would assure this court
5 that she does not believe that Mr. Grider is a danger to
6 the community in any way. And that's what I --

7 THE COURT: Mr. Mayr, just to be clear since
8 we're proceeding by proffer, I'll ask you, rather than Ms.
9 Shaw, she is located in the Waco area, correct? She was
10 not in Washington, D.C. at the time of the report?

11 MR. MAYR: That is correct, your Honor. So she
12 would have -- yeah. That is correct. She was receiving
13 and reporting from Waco.

14 THE COURT: Thank you.

15 MR. MAYR: Okay. Unless you have any other
16 questions, your Honor, that's all I have for Ms. Shaw.

17 THE COURT: I do not. Thank you, Ms. Shaw.

18 MR. MAYR: If I may just have a moment, your
19 Honor.

20 THE COURT: Certainly.

21 MR. MAYR: That is all the evidence that I have
22 by way of proffer that I care to present to the Court at
23 this time.

24 THE COURT: Okay. Well, thank you, Mr. Mayr.

25 So, Mr. Srinivasan, I believe that we're ready to

1 proceed to argument.

2 MR. SRINIVASAN: Yes, your Honor. Thank you.

3 We believe that Mr. Grider poses a danger to the
4 community. And we believe that the nature and
5 circumstances of the offense as well as some of the
6 information that was just presented to the Court, I think,
7 demonstrate the risks that he poses. He was not a
8 bystander in the capitol. He wasn't just swept up in the
9 crowd. He was at the front lines, breaching a secure
10 location with violence after disrupting Congress
11 performing a constitutional duty.

12 He had a helmet with him, and he gave it to
13 somebody who had already tried to breach those doors. He
14 indicated as, you know, set forth in the complaint that
15 the helmet was hard, meaning that it was an implement that
16 could be used for this purpose, gave it to that person.
17 That person proceeded to smash the doors. There's a
18 picture in the complaint of Mr. Grider trying to push the
19 doors. He was an active participant in all this.

20 He stood there, tried to push the doors open.
21 The window was breached, and then, Ms. Babbitt was
22 tragically shot as a result of that. He was part of the
23 causal chain of events that led to the death of an
24 individual. And at various points, your Honor, I think
25 it's set forth in the -- you know, the complaint, there

1 were times when he is recording, he's taking pictures. He
2 is taking video, your Honor.

3 He wasn't a peacemaker. He didn't get there and
4 say, you know, hey, we shouldn't be doing this. Didn't
5 try to get people to back off. He didn't try to stop what
6 was happening, your Honor. He didn't want to forget what
7 was happening, and he documented it for himself as he went
8 along. And that is, I think, striking, your Honor, and
9 it's striking in contrast, I think, to some of the
10 evidence that's been presented to the Court today as well
11 as in the memorandum that Mr. Mayr submitted.

12 You look at the letters of Reverend Reg Seck, Mr.
13 Winkleman, Ms. Green, Ms. Ford, and some of the
14 information that was proffered today, and you get the
15 impression, I guess, two themes, I think, seem to emerge.
16 And the first is that these individuals don't know him to
17 be capable of such violence in their experiences with him,
18 and that he is fundamentally, they say, a good person and
19 seems should not be judged on this, you know, one -- one
20 day, this most horrible moment in his life when there's so
21 much other good that he has done.

22 And, your Honor, I think we would submit that
23 sometimes we can be judged and should be judged based upon
24 some of these worst moments because they reveal what an
25 individual is capable of. And, you know, the -- what

1 happened there at the capitol, Mr. Grider's active
2 participation in it shows then that he's capable of
3 things, capable of participation in violence that
4 apparently is not known to any of the people who have come
5 to speak for him.

6 And so, there's a risk, your Honor, because this
7 was a moment of in great stress, excitement. You know,
8 I'm not trying get inside his head, but in a situation of
9 a mob, there's a lot of things that go on, and going
10 forward, your Honor, Mr. Grider is going to face stresses
11 and strains. He has now been indicted. He is now facing
12 a felony charge -- multiple felony charges, one with a
13 20-year maximum 1512(c). He's now facing significant
14 consequences for his action.

15 And I would close, your Honor, by -- you know, by
16 pointing out something that I found striking in the
17 proffer of Ms. Shaw's testimony, the reporter, as well as
18 the clip that was played, your Honor. That Ms. Shaw as
19 proffered knows the Griders, spoke with Mr. Grider
20 shortly, you know, after these incidents, and yet, Mr.
21 Grider was not fully forthcoming with her as to what
22 actually happened.

23 When you listen to that video, you listen to the
24 proffer, it was all in the passive. He was as a witness.
25 Ms. Babbitt got shot and so on. And to the extent that,

1 you know, Mr. Mayr, Mr. Grider wants to persuade the Court
2 that that is something that you should consider, I think
3 you should also consider what is also -- what it shows in
4 the converse, which is that there's an aspect to this
5 person, a risk that this person poses, given the right
6 circumstances that is unacceptable, and it came out that
7 day, and it's one that it seems like no one else knows,
8 but it's right there. The complaint right there on video,
9 your Honor.

10 THE COURT: Thank you, Mr. Srinivasan.
11 Mr. Mayr.

12 MR. MAYR: Thank you, your Honor.

13 My client, Mr. Grider, never envisioned when he
14 got on a plane to go to Washington D.C. that he would find
15 himself in the position that he now finds himself. He did
16 not go there to commit a crime. Let's be very clear about
17 that. There is no evidence whatsoever to even support or
18 insinuate that. He did not go up there to riot. He did
19 not go up there to start an insurrection.

20 Your Honor, whatever happened on that tragic day
21 in American history at the United States Capitol, my
22 client deeply regrets ever being a part of it. He is
23 ready to return home to his family, his community, his
24 church and his business, and to focus on those things and
25 those things alone. The things that truly matter and mean

1 the most to him.

2 He's ready to respect and honor the institutions
3 of this great country of ours as he's done in the past,
4 serving in the military, and as he will in the future,
5 respecting and following any conditions that you require
6 of him.

7 Your Honor, I believe that you can put your faith
8 in him to do just that as so many others around him have
9 assured you. Family, friends, neighbors, educators,
10 businesspeople, members of the clergy and his congregation
11 have all firmly and unequivocally attested to you how he
12 is a loving, peaceful person and will not be a danger to
13 their community. From when he was a boy to the man he is
14 today, he is hard-working, dedicated to his family and his
15 community.

16 Your Honor, I think it's important to understand
17 that Mr. Grider is not some maniacal, radical extremist
18 who went there with some mal intentions. When you watch
19 the videos, you see that he's not screaming, he is not
20 espousing crazy beliefs. He is not acting like an
21 agitator. He is there as an observer. He went there to
22 see what was happening, not to participate in an
23 insurrection, not to riot, not to destroy.

24 Your Honor, the government talks about that the
25 violence and what he -- and how he was at the door. I

1 think it's really important to understand what -- the only
2 thing the evidence shows, okay? There's never been an
3 allegation that Mr. Grider took some object and started
4 trying to break the glass at the capitol doors and the
5 entrance to the speaker's lobby. He was present. He was
6 there and what happened there will -- was a tragedy. No
7 doubt.

8 For the government to insinuate that he's somehow
9 responsible for Ms. Babbitt's death is just absurd. I
10 think as lawyers, we could understand the breaks and the
11 causal links, but there is no indication that Mr. Grider
12 ever did anything to contribute to her death. He's
13 certainly not been indicted for that. As soon as it was
14 over with, he left Washington, he came back here, and this
15 court is aware of the actions that he has engaged in
16 subsequent to then.

17 I think it speaks volumes, your Honor, that he
18 went down and surrendered himself to the FBI. You have, I
19 imagine, have had several defendants appear before you
20 charged with much more serious federal offenses who have
21 been arrested in the middle of the nights, after their
22 homes are raided by federal agents. I think it speaks
23 volumes, your Honor, that in this particular case, the
24 agents called Mr. Grider up, asked him to come down to
25 Austin. He got in his car, drove himself down there and

1 voluntarily surrendered himself, knowing what he had done
2 and what was coming.

3 His car is still there in Austin, your Honor.
4 We'd like you to let him get back in that car, drive back
5 home to Falls County to take care of his family, take care
6 of his community, and together with me, work to -- work
7 with him to seek a positive resolution of these charges
8 against him.

9 The government, as you're well aware, your Honor,
10 has the burden in this case. I've sort of assumed the
11 burden to myself. I wanted to prove by clear and
12 convincing evidence, I wanted to prove by a shadow of the
13 doubt that you have nothing to be concerned about. The
14 government has not proven by clear and convincing evidence
15 that there's no conditions that could assure the safety of
16 the community. There's clearly no evidence of intent to
17 flee.

18 I would respectfully ask, your Honor, that you
19 take into consideration everything that has been presented
20 to you in this matter and allow Mr. Grider to go home.
21 Thank you.

22 THE COURT: Thank you, Mr. Mayr.

23 Mr. Srinivasan, any further argument?

24 MR. SRINIVASAN: Your Honor, all I would say in
25 response to Mr. Mayr is that I think he emphasized

1 repeatedly that Mr. Grider was a witness and was observing
2 in what was there. I think he used the word "observer."
3 I would just call the Court's attention -- I know you have
4 this before you -- page 8 of the complaint, your Honor,
5 the photo that's there. That is a man with his hand on
6 that door, and there are people trying to breach it and he
7 is helping. He is not a witness, your Honor. He was an
8 active participant in an attempt to breach a secure
9 location, endangering Congress, your Honor. He's a
10 participant in these activities, and we'd ask your Honor
11 to give that significant weight. Thank you.

12 THE COURT: Okay. Thank you to everyone.

13 So as I would like to thank everyone specifically
14 who's participated today. I'd like to thank counsel for
15 their very able arguments. And I'll start out by saying
16 that the Bail Reform Act, which I referred to earlier,
17 Title 18 of the United States Code, Section 3142, requires
18 me to consider four specific factors. Those are the
19 nature and circumstances of the alleged offense, including
20 whether it's a violent offense, the weight of the evidence
21 against the defendant, your history and characteristics,
22 Mr. Grider, and the nature and seriousness of the danger
23 to others or to the community.

24 So I have carefully considered all the evidence
25 that's been provided today on these factors. And I've

1 also considered the recommendation of Pretrial Services,
2 which in this case is that you be released. The letters,
3 the evidence, Exhibit A, the support of your family and
4 friends speak to your history and characteristics, Mr.
5 Grider; and based on that evidence, I find that you are
6 not -- the government hasn't met its burden to establish
7 that you are a flight risk. So I will not be granting
8 detention on that basis.

9 But, Mr. Grider, I have to consider the other,
10 factors, as well, as required by the Bail Reform Act. In
11 this case, in particular, the weight against you is
12 particularly strong. I'm also going to consider the
13 nature and circumstances of the alleged offense, which is
14 extremely serious here.

15 And as Mr. Srinivasan said, you know, Mr. Mayr
16 argued that you were there as an observer. You also -- it
17 was also reported in the news that you went to see for
18 yourself. Mr. Grider, that's not what the evidence shows.
19 That does not show that you were a member of the crowd on
20 January 6th. That the evidence is very strong that you,
21 in particular, supplied the helmet used to break the
22 speaker's lobby doors, and that you, yourself, pushed and
23 kicked on those doors in attempt to breach the House
24 chambers.

25 Now, as I previously said, you are presumed to be

1 innocent of these charges, but the evidence is quite
2 strong. That's an extremely serious offense. And while
3 those events of January 6th are quite unusual, it's not
4 unusual for me to see criminal defendants who have the
5 support of their family and friends and, yet, are accused
6 of offenses that are serious enough that they require
7 detention.

8 And here, based on the nature and circumstances
9 of the offense and the very strong weight of the evidence
10 against you, Mr. Grider, I'm going to -- I find that the
11 government has met its burden to show by clear and
12 convincing evidence that there's no condition or
13 combination of conditions that will reasonably assure the
14 safety of community -- of the community if you were to be
15 released.

16 I'll also mention, it's primarily based on the
17 first two factors. But I think factor four, the nature
18 and seriousness of the danger to others or the community
19 is quite strong in this case, as well.

20 So I'll be preparing a written order of
21 detention. And I'll remand you, Mr. Grider, into the
22 custody of the United States Marshal Service for transport
23 to the district of the District of Columbia for further
24 proceedings.

25 So before we adjourn today, Mr. Srinivasan, is

1 there anything else that the Court needs to address at
2 this time?

3 MR. SRINIVASAN: Not from the government. Thank
4 you.

5 THE COURT: Okay. Thank you.

6 And, Mr. Mayr, is there anything else that the
7 Court needs to address?

8 MR. MAYR: Not at this time, your Honor -- ah, he
9 has been indicted. I don't know if we need to handle any
10 other Rule 5 matters at this time as this is my first
11 appearance before you. I don't know if those were
12 handled -- I couldn't tell if those were handled at the
13 initial, but if we can make sure that there isn't any
14 other Rule 5 matters that need to be addressed.

15 THE COURT: Did you have anything in particular,
16 Mr. Mayr, that you can't tell whether it needs to be
17 addressed or not?

18 MR. MAYR: Not really, your Honor. Like I said,
19 I just -- you know, obviously we'll deal with arraignment
20 up in D.C. And I imagine we'll deal with arraignment up
21 in D.C. There's no reason for an identity hearing. I'm
22 just kind of going through my mind, I think that --

23 THE COURT: Mr. Mayr -- yes, Mr. Grider waived
24 identity hearing at the initial appearance.

25 MR. MAYR: Okay. That's what I -- just want to

1 confirm. Other than that, I have nothing further, your
2 Honor.

3 THE COURT: All right. Mr. Srinivasan, is there
4 anything else, any other further Rule 5 procedure? The
5 Court's not aware of any, but is there any further Rule 5
6 procedure you're aware of that Mr. Grider is entitled to
7 at this time?

8 MR. SRINIVASAN: No, your Honor.

9 THE COURT: Okay. Thank you.

10 And I'll ask the courtroom deputy: Is there
11 anything further that needs to be addressed before we
12 adjourn?

13 THE CLERK: No, your Honor.

14 THE COURT: Okay. Thank you.

15 MR. MAYR: Your Honor, actually, one thing. I do
16 just to make sure we're clear on this. As far as the
17 Exhibit B that I offered, the video clip, it's a very
18 large digital file. What would be the most effective way
19 to get that to the Court and made part of the record in
20 this case?

21 THE COURT: I'm going to defer to the courtroom
22 deputy if he has anything to add, but I believe that that
23 can be submitted on a USB drive.

24 MR. MAYR: Okay.

25 THE COURT: As a physical USB drive to the Court.

1 MR. MAYR: All right.

2 THE COURT: Does the courtroom deputy wish to add
3 anything further with regard to evidence? The video
4 evidence?

5 THE CLERK: That is a great question and I'll
6 certainly follow up with you following this hearing, Mr.
7 Brent, to --

8 MR. MAYR: I'll do the same with you, Mr.
9 Ferrell. Thank you.

10 THE COURT: Thank you, Mr. Mayr. You can
11 communicate by e-mail, but I believe making it --
12 submitting it on a drive, an external drive will be
13 sufficient.

14 So with nothing else, Mr. Grider, I'll wish you
15 good luck and Court's adjourned.

16 (Proceedings conclude at 2:12 p.m.)
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, LILY I. REZNIK, DO HEREBY CERTIFY THAT THE FOREGOING
WAS TRANSCRIBED FROM AN ELECTRONIC RECORDING MADE AT THE
TIME OF THE AFORESAID PROCEEDINGS AND IS A CORRECT
TRANSCRIPT, TO THE BEST OF MY ABILITY, MADE FROM THE
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER, AND THAT THE
TRANSCRIPT FEES AND FORMAT COMPLY WITH THOSE PRESCRIBED BY
THE COURT AND JUDICIAL CONFERENCE OF THE UNITED STATES.

/s/Lily I. ReznikFebruary 1, 2021

LILY I. REZNIK, CRR, RMR
Official Court Reporter
United States District Court
Austin Division
501 W. 5th Street, Suite 4153
Austin, Texas 78701
(512)391-8792
SOT Certification No. 4481
Expires: 1-31-23

DATE

Exhibit B

Order of Detention (Doc. No. 14 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.)

UNITED STATES DISTRICT COURT

for the
Western District of Texas
Austin Division

United States of America

v.

Christopher Ray Grider

Defendant

Case No. 1:21-mj-00033-SH

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

On Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), the Court held a detention hearing on January 27, 2021, and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g), the pretrial services report, and the evidence and arguments of counsel presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

☒ By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of the community.

☐ By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

☒ Weight of evidence against the defendant is strong

☒ Subject to lengthy period of incarceration if convicted

Other Reasons or Further Explanation:

My decision is based on the factors listed above, as well as the nature and circumstances of the offenses charged, including whether the offense is a crime of violence, and the nature and seriousness of the danger to the community that would be posed by Mr. Grider's release. In particular, as stated during the hearing, there is extremely strong evidence that Mr. Grider was a leading participant in the offenses charged inside the United States Capitol Building on January 6, 2021. There is evidence that Mr. Grider supplied the helmet used to break glass in the doors leading into the Speaker's Lobby, and personally pushed and kicked those doors. A third party, Ashli Babbitt, then was fatally shot as she attempted to enter. As counsel for Mr. Grider argued during the detention hearing: "What happened there was a tragedy." Had Mr. Grider succeeded in his alleged attempts to breach the entrance leading to the House Chamber, the tragedy could have been far greater.

The nature and circumstances of the offenses charged support a finding that Mr. Grider's release would pose a serious danger to the community. Considering all information available, the government has established by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of the community, and the Court orders Mr. Grider detained on that basis.

Part III - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: January 27, 2021



Susan Hightower
United States Magistrate Judge

Exhibit C

Defendant's Motion to Reopen Detention Hearing (Doc. No. 17 in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

v.

CHRISTOPHER RAY GRIDER,

Defendant

§
§
§
§
§
§
§
§
§

Case No. 21-mj-00033-SH

DEFENDANT'S MOTION TO REOPEN THE DETENTION HEARING

TO THE HONORABLE SUSAN HIGHTOWER, UNITED STATES MAGISTRATE
JUDGE:

COMES NOW CHRISTOPHER RAY GRIDER, the Defendant in the above styled and numbered cause, by and through undersigned counsel, and, pursuant to 18 U.S.C. § 3142(f), moves this Court to reopen the detention hearing to consider new evidence that was not known to Defendant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.

1. As reflected in this Court's order, this Court is under the impression that Defendant was "a *leading participant* in the offenses charged inside the United States Capitol Building on January 6, 2021." Order of Detention Pending Trial at 2 (emphasis added). This Court — as the Government argued — further placed emphasis on acts alleged to have been committed at the doors leading to the Speaker's Lobby. *Id.*
2. Shortly after the conclusion of the detention hearing in the matter, counsel for

Defendant attempted to locate additional videos that shed further light as to what took place at the doors leading to the Speaker's Lobby.

3. While the complaint includes images from what appears to be a video marked with the distinct watermark "JAYDEN X" taken at the doors leading to the Speaker's Lobby, despite his best efforts, undersigned counsel was unable to locate that video nor was provided that evidence by the Government prior to the detention hearing.
4. As reflected on attached Exhibit A to this motion, the internet search history for undersigned counsel's personal web browser, at 2:20 p.m. today after the detention hearing concluded, undersigned counsel located on YouTube what appears to be that video. The web address for that video is <https://www.youtube.com/watch?v=PfiS8MsfSF4>.
5. While the video is lengthy, the portions purportedly depicting Mr. Grider begin at 31:02 into the video. The person believed to be Mr. Grider is seen in a rotunda and is certainly not a "leading participant." To the contrary, at 31:21 into the video, the person believed to be Mr. Grider is pushing people back as Capitol officers are trying to move away from a closed door, and he is waving at the surrounding group of people and saying, "The cops are leaving, the cops are leaving." Mr. Grider is then seen backing away.
6. At 33:30 into the video, the videographer appears before the entrance to the Speaker's Lobby. The person believed to be Mr. Grider, again, is not "a leading participant." At 33:36 into the video, the person believed to be Mr. Grider is seen

in the far right of the frame, not yelling, nor shouting but having a tepid conversation with another male in a tie, presumably a member of the Capitol Police or Capitol staff.

7. The most critical portion of the video begins at 34:05 when the videographer begins talking with what appears to be a member of the Capitol Police guarding the doors to the Speaker's Lobby. From that point, the following is seen:

- At 34:13 into the video, the person believed to be Mr. Grider hands a hard, plastic helmet to another person and then looks back. While there appears to be limited dialogue, it cannot be heard on the video.
- Up until 34:22 into the video, the person believed to be Mr. Grider does not appear to be shouting, waving his arms, or using any physical force against anyone. To the contrary, he again appears at 34:37 into the video engaged in a calm dialogue with a Capitol Police officer guarding the door.
- Immediately thereafter, the officers move away from the door. Several individuals then move in front of the person believed to be Mr. Grider and begin pushing on the door to the Speaker's Lobby. The person believed to be Mr. Grider then places his hand on the door — not the window — and pushes it, not in a manner that would appear that he was truly trying to break it open, but simply to see whether it was secure or not. Others then move in and make obvious attempts to forcefully open the door.
- Immediately thereafter, someone with dark pants clearly kicks the door to the Speaker's Lobby. But from the video, because there are several other

individuals at door, it is not clear that the person believed to be Mr. Grider was that person. What the video does clearly shows is that he *backs away* from the door while several others continue kicking at it and eventually smashing the windows. Nothing the person believed to be Mr. Grider is doing or saying can be construed as “leading” the group or encouraging others to engage in their own destructive behavior.

- Shortly thereafter, the videographer’s focus turns to a gun on the other side of the doors pointed at the people at the door. From that point, the video depicts the graphic and tragic shooting of Ashli Babbitt.
- At 35:35, the person believed to be Mr. Grider is seen again, like others, standing over Babbitt and recording what is taking place but doing nothing more.

8. Defendant is deeply concerned about the Government’s effort to show this Court only the pieces of the puzzle needed to fit their narrative. This newly-discovered video provides a much more complete picture, and more importantly, shows that the person believed to be Mr. Grider is not, like this Court found, “a leading participant,” and he does not appear to be engaged in a forceful and continued attempt to breach the doors to the Speaker’s Lobby.
9. Defendant respectfully requests that this Court reopen the detention hearing and spend simply five minutes watching this video so it can judge for itself whether its decision on detention was truly a correct one and whether the Government provided it with a clear and accurate depiction of what is believed to have taken place.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Court reopen the detention hearing, accept and consider the evidence referenced herein, and revoke its previous Order to detain Defendant pending trial.

Respectfully Submitted,

MAYR LAW, P.C.

by: /s/T. Brent Mayr
T. BRENT MAYR
Texas State Bar Number 24037052
bmayr@mayr-law.com

5300 Memorial Dr., Suite 750
Houston, TX 77007
Telephone: 713-808-9613
Fax: 713-808-9613

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was sent to Counsel for the Government on January 27, 2021, via CM/ECF.

/s/T. Brent Mayr
T. BRENT MAYR

Exhibit A to Defendant's Motion to Reopen Detention



Exhibit D

Order denying Defendant's Motion to Reopen Detention Hearing
((Doc. No. 18 in Case No. 21-mj-00033-SH in the Western District
of Texas, Austin Div.)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

United States of America

§

vs.

§

1:21-mj-33-SH

§

Christopher Ray Grider

§

§

ORDER

Before the Court is Defendant's Motion to Reopen the Detention Hearing, filed January 27, 2021 (Dkt. 17).

I. Background

Defendant Christopher Ray Grider was arrested on January 21, 2021, pursuant to a warrant based on a complaint that he violated 18 U.S.C. § 1361, concerning willfully injuring or committing any depredation against any property of the United States; 18 U.S.C. § 1752(a), knowingly entering or remaining in restricted building or grounds without lawful authority; and 40 U.S.C. § 5104(e)(2), violent entry and disorderly conduct on Capitol grounds. Dkt. 1.

On January 26, 2021, Mr. Grider was indicted in the United States District Court for the District of Columbia on the following seven counts:

1. 18 U.S.C. §§ 1361 and 2, Destruction of Government Property and Aiding and Abetting
2. 18 U.S.C. § 1752(a)(1), Entering and Remaining in a Restricted Building
3. 18 U.S.C. § 1752(a)(2), Disorderly and Disruptive Conduct in a Restricted Building or Grounds
4. 18 U.S.C. § 1512(c)(2) and 2, Obstruction of an Official Proceeding and Aiding and Abetting
5. 40 U.S.C. § 5104(e)(2)(D), Disorderly Conduct in a Capitol Building
6. 40 U.S.C. § 5104(e)(2)(E), Impeding Passage Through the Capitol Grounds or Buildings
7. 40 U.S.C. § 5104(e)(2)(F), Act of Physical Violence in the Capitol Grounds or Buildings.

United States of America v. Grider, 1:21-cr-00022-KBJ, Dkt. 6.

After a detention hearing on January 27, 2021, this Court found, by clear and convincing evidence, that no condition or combination of conditions of release would reasonably assure the safety of the community. Dkt. 14. Defendant therefore was ordered detained pending trial. *Id.* Mr. Grider now moves to reopen the detention hearing.

II. Analysis

Under 18 U.S.C. § 3142(f)(2)(B), a detention hearing may be reopened

at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure . . . the safety of any other person and the community.

The complaint against Mr. Grider includes images from video apparently taken inside the Capitol. Dkt. 1 at 6-9. In his Motion, counsel for Mr. Grider states that, after the conclusion of the detention hearing, he “located on YouTube what appears to be that video.”

Mr. Grider does not contend that this information has any bearing on whether he forcefully entered the United States Capitol Building on January 6, 2021, as Congress convened in Joint Session to affirm the Electoral College vote in the 2020 Presidential Election; progressed inside the Capitol Building to the doors of the Speaker’s Lobby; supplied the helmet used to break glass in the doors leading into the Speaker’s Lobby; or pushed on those doors. Rather, as described by Mr. Grider, it is not clear from the YouTube video that he was the person who kicked the door to the Speaker’s Lobby because several other individuals also were at the doors. Dkt. 17 at 3-4. Mr. Grider further argues that:

The person believed to be Mr. Grider then places his hand on the door — not the window — and pushes it, not in a manner that would appear that he was truly trying to break it open, but **simply to see whether it was secure or not**. Others then move in and make obvious attempts to forcefully open the door.

Id. at 3 (emphasis added).

As described by Mr. Grider, the video is strong evidence of his attempt to breach the House Chamber, although he disputes the Government's characterization of how forcefully he did so. This information has no material bearing on the factors on which the detention order was based: the nature and circumstances of the offenses charged, including whether the offense is a crime of violence; the weight of the evidence against Mr. Grider; and the nature and seriousness of the danger to the community that would be posed by his release. 18 U.S.C. § 3142(f). Stated differently, whether or not he led or encouraged others in the alleged commission of the offenses charged, there is extremely strong evidence that Mr. Grider participated at the forefront in the events that led to the fatal shooting inside the Capitol Building on January 6, 2021.

To the extent that Defendant's Motion to Reopen the Detention Hearing presents information that was not known at the time of the detention hearing, it has no material bearing on whether there are conditions of release that will reasonably assure the safety of the community. It remains the conclusion of the Court that Mr. Grider must be detained pending trial because the United States has proven by clear and convincing evidence that no condition or combination of conditions of release would reasonably assure the safety of the community.

III. Conclusion

For the foregoing reasons, **IT IS ORDERED** that Defendant's Motion to Reopen the Detention Hearing (Dkt. 17) is **DENIED**.

SIGNED on January 28, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE

Exhibit E

Defendant's Second Motion to Reopen Detention Hearing (Doc. 22 in in Case No. 21-mj-00033-SH in the Western District of Texas, Austin Div.)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

v.

CHRISTOPHER RAY GRIDER,

Defendant

§
§
§
§
§
§
§
§
§

Case No. 21-mj-00033-SH

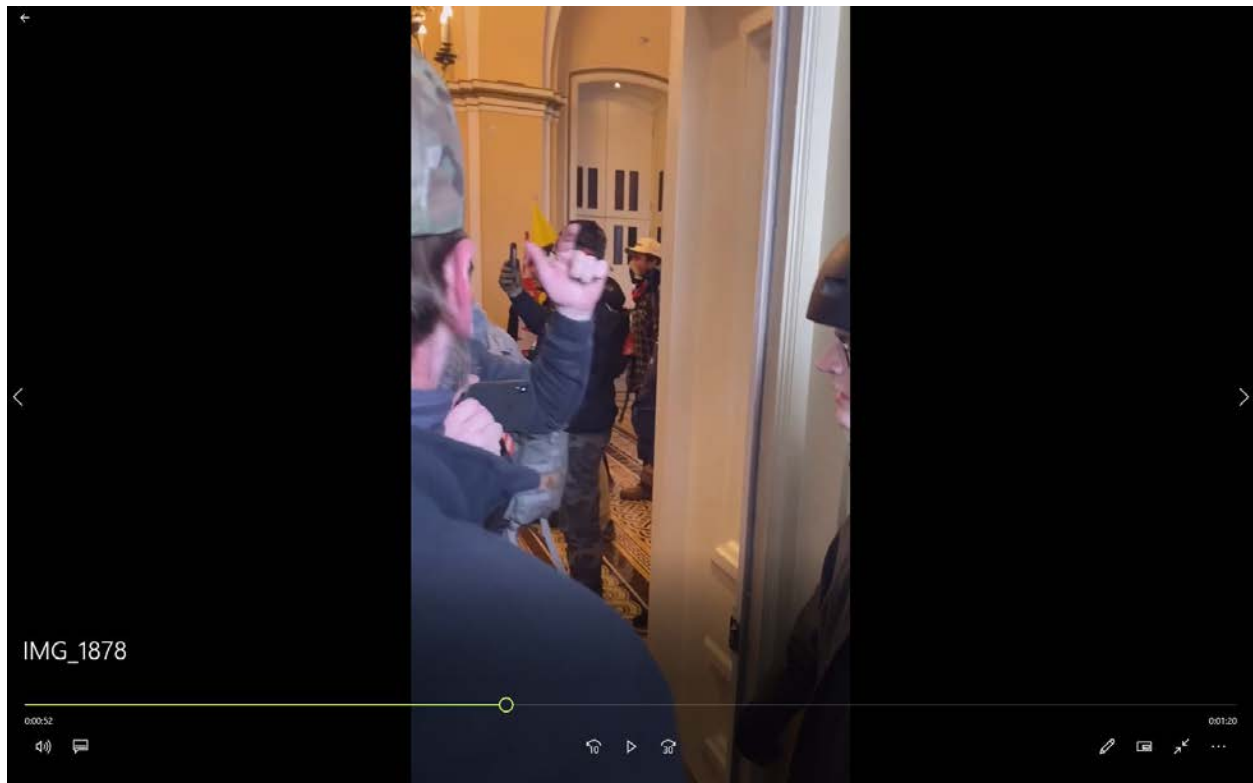
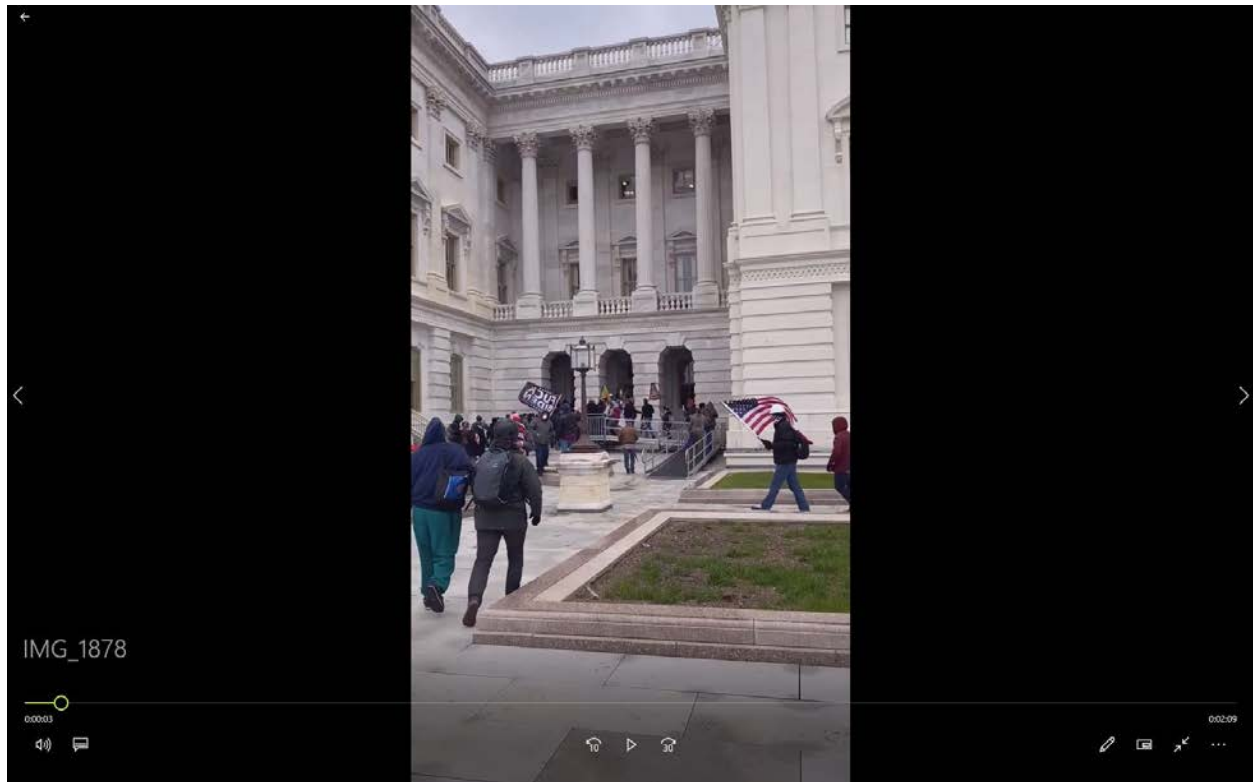
DEFENDANT'S SECOND MOTION TO
REOPEN THE DETENTION HEARING

TO THE HONORABLE SUSAN HIGHTOWER, UNITED STATES MAGISTRATE
JUDGE:

COMES NOW CHRISTOPHER RAY GRIDER, the Defendant in the above styled and numbered cause, by and through undersigned counsel, and, pursuant to 18 U.S.C. § 3142(f), moves this Court to reopen the detention hearing to consider new, additional evidence that was not known to Defendant at the time of the hearing or prior to his previous motion to reopen, evidence that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.

1. This Court and the Government continues to mistakenly believe that the Defendant *forcefully* entered the United States Capitol Building on January 6, 2021 and that he somehow played an active role “at the forefront in the events that led to the fatal shooting inside the Capitol Building” that same date.

2. Subsequent to the detention hearing held by this Court and subsequent to Defendant's first motion to reopen the detention hearing filed on January 27, 2020, counsel for the Defendant has discovered new, additional evidence that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.
3. Because the Defendant's cellular telephone was seized by federal agents upon surrendering to them on January 21, 2021, counsel for Defendant did not have access to any photographs or videos contained on that device taken by the Defendant on January 6, 2021 at the time of the detention hearing or prior to his first motion to reopen the detention hearing. On Friday, January 29, 2021, however, counsel for the Defendant, obtained a computer from the Defendant's property and after examining that computer, located backup copies of those photographs and videos.
4. The videos reflect the following:
 - a. In a video file titled, IMG_1878.m4v, the Defendant is seen walking up to an entrance on the ground level of the Capitol building and walking through *an open door* along with hundreds of other individuals. While other individuals nearby shattered glass windows, there is no obvious indication that the door which the Defendant walked through was opened by force and there is clearly no forcible entry made by the Defendant. On the following page are still shots from that video showing this non-forcible entry:



- b. In a video file titled, IMG_1883.m4v, the Defendant is seen walking up to the entrance to the Speaker's Lobby where multiple Capitol Officers are standing guard. The Defendant does not yell, shout, or make any threatening comments to them. Instead, he is heard telling the officers, "People are going to get crushed on that other side if they don't open that door" (referring to another area from where he had just come from). He is pleading with the officers, telling them, "There are two cops getting crushed." Others can then be seen walking up and banging on the doors, but not the Defendant. Eventually, more and more people begin approaching the door and, as space becomes confined, the video no longer captures any images. However, the audio is still recording and, at no time, can the Defendant be heard making any threatening comments or directing anyone to try and break open or damage the doors or do anything else. The video can be seen here: <https://app.box.com/s/q6wfnagvorgqhbtejvm0vqzal5r7dn5j>.
5. In addition to the photographs and videos obtained from the Defendant's phone, counsel for the Defendant also located an additional YouTube video showing what takes place at the Speaker's Lobby from a different angle: <https://youtu.be/AZ9oThRuMV8>. Worth noting in this video is that as officers are moving away from the door, the Defendant is following them. Further, when the person who is presumably Ashli Babbitt begins attempting to climb through the window to the Speaker's Lobby, the Defendant had his back turned and was continuing his attempt to move *away* from the doors.

6. All this new material corroborates what the Defendant has maintained all along: his presence in the Capitol was not one of a person who intended to inflict harm on anyone or commit any violent acts. He wanted his voice to be heard and nothing more. He submits that wanting to be heard does not clearly and convincingly equate him to a person who is so dangerous and so violent that there are no condition or combination of conditions of release would reasonably assure the safety of the community. This is especially so when considering this new evidence in conjunction with his lack of any prior violent criminal history, his reputation as a caring and generous individual in the community, and the fact that he voluntarily surrendered himself to authorities.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Court reopen the detention hearing, accept and consider the evidence referenced herein, and revoke its previous Order to detain Defendant pending trial.

Respectfully Submitted,

MAYR LAW, P.C.

by: /s/ T. Brent Mayr
 T. BRENT MAYR
 Texas State Bar Number 24037052
 bmayr@mayr-law.com

5300 Memorial Dr., Suite 750
 Houston, TX 77007
 Telephone: 713-808-9613
 Fax: 713-808-9613

COUNSEL FOR DEFENDANT,
 CHRISTOPHER RAY GRIDER

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was sent to Counsel for the Government on February 1, 2021, via CM/ECF.

/s/T. Brent Mayr
T. BRENT MAYR