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UNITED STATES DISTRICT COURT --
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

BRIAN CHRISTOPHER MOCK,

Defendant(s).

Criminal Case
No. 21-00444 (JEB)

Washington, D.C.

June 21, 2023

BENCH TRIAL - DAY 2
BEFORE THE HONORABLE JAMES E. BOASBERG
UNITED STATES DISTRICT CHIEF JUDGE

APPEARANCES:

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I-N-D-E-X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
BETH ALVAREZ				
BY MR. GORDON	5		120	
BY MR. MOYERS		84		
STEVIN KARLSEN				
BY MR. MOYERS	145			
JONATHAN COLLINS				
BY MR. MOYERS	154			
DEFENDANT'S EXHIBITS				PAGE
2				146

1 The following proceedings began at 9:32 a.m.:

2 THE COURT: Good morning, everybody.

3 THE COURTROOM DEPUTY: Good morning again. We are
4 here today for day 2 of bench trial, Criminal Matter 21-444,
5 the United States of America versus Brian Christopher Mock.

6 Beginning with counsel for the government, please
7 approach the lectern and identify yourself for the record.

8 MR. GORDON: Good morning, Your Honor. Mike Gordon
9 and Mike Jones for the government.

10 THE COURT: Good morning, gentlemen.

11 MR. MOYERS: Good morning, Your Honor. Peter Moyers
12 for the defense, with Brian Mock as my client. Ms. Emily
13 Lambert is our paralegal.

14 THE COURT: Thank you.

15 Good morning to all of you.

16 Anything preliminary before we resume this morning,
17 government?

18 MR. GORDON: Just one, Your Honor. We are withdrawing
19 Exhibit 816 from evidence.

20 THE COURT: That was on the list?

21 MR. GORDON: It was on the list, but we haven't shown
22 it yet.

23 THE COURT: Very well. 816 is withdrawn.

24 MR. GORDON: But that's it, Your Honor.

25 THE COURT: All right. Anything, Mr. Moyers?

1 MR. MOYERS: Nothing from the defense, Your Honor.

2 THE COURT: All right. Government, call its next
3 witness.

4 MR. GORDON: Thank you, Your Honor.

5 The United States calls Special Agent Beth Alvarez.

6 THE COURTROOM DEPUTY: Good morning. Remain standing
7 and raise your right hand.

8 BETH ALVAREZ

9 Having been first duly sworn on oath, was examined and
10 testified as follows:

11 THE COURTROOM DEPUTY: Thank you. Please be seated.

12 MR. GORDON: Your Honor, I just need one moment to get
13 the computer set up.

14 THE COURT: Take your time.

15 MR. GORDON: Thank you for the patience, Your Honor.

16 THE COURT: Sure.

17 MR. GORDON: Before we begin with questions, I would
18 like Your Honor just to take judicial notice of Government's
19 Exhibit 601 through 608. These are the exhibits that relate to
20 the 12th Amendment, the various statutes that underlie the
21 certification and the congressional record. They are not
22 things that we need to explicate for the Court obviously, but
23 they establish the existence of the certification and
24 substantiate it as an official proceeding. So we need to make
25 it part of the record, but I know Your Honor doesn't need a

1 witness to explain them to you.

2 THE COURT: Thank you.

3 DIRECT EXAMINATION

4 BY MR. GORDON:

5 Q Good morning, Special Agent Alvarez.

6 A Good morning.

7 Q Can you please state your name and spell it for the
8 record.

9 A Beth Alvarez, B-E-T-H A-L-V-A-R-E-Z.

10 Q Agent Alvarez, are you employed?

11 A Yes.

12 Q And by whom are you employed?

13 A The FBI.

14 Q What do you do for the FBI?

15 A I am a special agent.

16 Q And what kind of cases do you usually work on?

17 A Normally gangs and violent crimes.

18 Q Well, then how did you become connected with this case
19 against Defendant Brian Mock?

20 A I am the case agent for this case, and I work in Northern
21 California, but the Washington field office had asked for
22 assistance from other field offices after January 6 to help
23 with the large number of criminal cases that arose.

24 Q Can you pull the microphone just a step closer to you if
25 you would.

1 A Of course. Is this better?

2 Q That's better, yes.

3 So when did that call for help from the Washington field
4 office come in?

5 A Approximately March of 2021.

6 Q Prior to that date, for example, on January 6 itself, were
7 you watching the news?

8 A Yes.

9 Q And were you aware of what had happened at the Capitol
10 that day?

11 A Yes.

12 Q And were you aware of the FBI's sort of immediate
13 public-facing actions in response to the events at the Capitol
14 on January 6?

15 A Yes.

16 Q Can you explain what some of those public-facing actions
17 were?

18 A Yes. The FBI set up a website and published photographs
19 of individuals who were committing crimes on January 6 and
20 encouraged the public to look at the photographs and provide
21 any tips that they had, any information that they had about the
22 individuals.

23 Q And when did the FBI create that website?

24 A It's my understanding it was created on January 6.

25 Q Available to the public even that same day?

1 A Yes.

2 Q Okay. What other immediate public-facing actions did you
3 observe?

4 A I mean, there were some arrests.

5 Q How quickly were people arrested for their roles on
6 January 6?

7 A They were arrested on January 7.

8 Q The first arrests were that date?

9 A Yes. That's my understanding.

10 Q Did you see news reports publicizing some of those
11 arrests?

12 A Yes.

13 Q So when you responded to the sort of call for agents, what
14 did that involve you doing?

15 A I spent 60 days here in Washington, D.C. working at the
16 Washington field office on the squad that is leading the
17 criminal investigation.

18 Q How did that detail, that assignment out to Washington,
19 how did that lead to you becoming the case agent for this
20 defendant?

21 A Mr. Mock was identified by various tipsters and -- while I
22 was there, he was identified, and I took on that investigation.

23 Q Was his photograph one of those photographs on the website
24 that you described earlier?

25 A Yes.

1 Q Okay. Why did his photograph make it to the website?

2 A He was seen on video committing acts of violence against
3 law enforcement.

4 Q And in the acts of violence you are describing, were they
5 any of the ones that have now been charged in the current
6 indictment?

7 A Yes.

8 Q Which ones are those?

9 A That would be assault No. 1, the --

10 Q Is that the one referencing Officer Collins?

11 A Yes.

12 Q Any others?

13 A And assault No. 4, the push of Officer Karlsen.

14 Q What about assaults 2 and 3, the ones that we have not yet
15 addressed in evidence in this case?

16 A Those were found later.

17 Q So was it only one photograph of Mr. Mock that was put up
18 on the FBI's website or were there more than one?

19 A There were numerous photographs of him at different times
20 during the day.

21 Q And you said that he was identified. How did that happen?

22 A Initially the photographs were -- initially the
23 photographs were put up and -- well, we got some tips that
24 identified that Mr. Mock was at the events of January 6, but we
25 didn't put it together with his photograph because his

1 photograph was made public in approximately late April of 2021.
2 And then when his photograph was made public, then somebody
3 came forward and identified him as the defendant.

4 Q So his photograph was not among those put on the website
5 on January 6 itself then?

6 A Correct.

7 Q Okay. But did you receive -- you received tips prior to
8 his photograph going out saying that he had been there?

9 A Yes.

10 Q Approximately how many tips identified him as being one of
11 the participants?

12 A There was a total of seven tips received, and the one that
13 came in on or about May 1, 2021 was the one that put his name
14 together with the photographs.

15 Q So what did you do at that point? Did you just take the
16 tipster at their word and go arrest Brian Mock the next day?

17 A No. We did some investigation.

18 Q Can you describe that investigation. What did you do to
19 corroborate the tip?

20 A We interviewed -- so the people who identified themselves
21 as the tipsters, we interviewed them and we got more
22 information about how they knew what they knew. And we went
23 and looked at Mr. Mock's publicly available Facebook account,
24 realized that he looked very much like the person in the
25 photographs.

1 After doing this investigation and just doing some public
2 and law enforcement records checks, we obtained a search
3 warrant for Mr. Mock's Facebook account.

4 Q Okay. Now, why Facebook?

5 A That was the social media platform that he seemed to
6 favor.

7 Q Did he have a publicly available Facebook page, or was it
8 blocked in some way?

9 A There were some things that anybody could see, but then to
10 see everything, you would need a search warrant.

11 Q And from the things that anybody could see, were you able
12 to corroborate the tips?

13 A Yes.

14 Q How so?

15 A Well, just there were photographs. As I recall, there
16 were photographs of him, and we could just compare those to the
17 photographs of the person.

18 Q And did you follow up and get a search warrant for his
19 Facebook account?

20 A Yes, I did.

21 Q Okay. Was his the only Facebook account that you got a
22 search warrant for as part of this investigation?

23 A No.

24 Q Who else did you get a search warrant for their Facebook
25 account?

1 A I also got a search warrant for the Facebook account of
2 the woman Mr. Mock traveled to Washington, D.C. with.

3 Q What's her name?

4 A Misty Visnovec.

5 Q Can you spell that for the court reporter.

6 A Yes. V-I-S-N-O-V-E-C.

7 Q How did you know that the defendant had traveled with
8 Ms. Visnovec to D.C.?

9 A Some of the tips identified her as the person with him,
10 and some of the tipsters also sent screenshots of Facebook
11 posts that showed the defendant and Ms. Visnovec together.

12 Q Were you able to look at her publicly available Facebook
13 postings?

14 A I think so. I think that she had maybe some photographs
15 that anybody could see. It depends -- for Facebook, it depends
16 on how a user has their privacy settings. Some people have it
17 so that you can't see anything unless you are friends with
18 them, and then some people have limited information available.
19 And I think that's how it was.

20 Q Did a judge grant the search warrant applications for the
21 Facebook accounts for the defendant and for Ms. Visnovec?

22 A Yes.

23 Q All right. And did Facebook comply with that search
24 warrant and give you the contents of their accounts?

25 A Yes.

1 Q And did you review those?

2 A Yes.

3 Q And then at that point, did you just turn over to the
4 prosecutors, you know -- well, let me ask a different question.

5 Approximately how big was the return from Facebook for the
6 defendant's Facebook page?

7 A It comes in a pdf, and the pdf was about, like, a little
8 over 4,000 pages.

9 Q Did you just turn around and give the prosecutors all
10 4,000 pages?

11 A No.

12 Q What did you do?

13 A I went through each page and looked for information or
14 posts or photographs or videos that would have evidentiary
15 value for this case. And I redacted everything that was not.

16 Q And did you give -- then what did you give to the
17 prosecutors?

18 A So we called that scoping the return. So I gave the
19 prosecutor the scoped return that had only what I considered to
20 be potential evidence in the case.

21 Q Okay. And you are aware at this point that we have
22 entered into evidence a variety of Facebook postings from that
23 search warrant, is that right?

24 A Yes.

25 Q Is everything that we have entered into evidence something

1 that you had pulled out of the Facebook account as something
2 that you believed had evidentiary value?

3 A Yes.

4 Q So now I would like to begin by showing you
5 Government's 802.

6 MR. GORDON: Ms. Bell-Norwood, if I could have the
7 podium computer, please.

8 BY MR. GORDON:

9 Q Agent Alvarez, can you see Government's 802 on the screen
10 in front of you?

11 A Yes.

12 Q Can you first, before we even get into the contents, can
13 you explain the information we see at the top of the screen
14 that I have indicated with the blue line. Are you familiar
15 with the term metadata?

16 A Yes.

17 Q Is this metadata?

18 A Yes.

19 Q What can we -- let's take it line by line. What does the
20 term posted mean in this context from a Facebook return?

21 A That is when the accounts user posted whatever it is that
22 they posted. So in this case, it's a photograph.

23 Q Okay. Is there a difference between a post and a comment?

24 A Yes.

25 Q What's the difference?

1 A A post is something that the user puts on his or her wall
2 for their friends or however they have their settings to see,
3 and a comment is when the user comments on something that
4 someone else has posted.

5 Q When you get a Facebook return back, do you get all of the
6 user's posts?

7 A Yes.

8 Q Do you get all of their comments?

9 A Yes.

10 Q Do you get the content that they were commenting on? Like
11 if some other user posted something and then the defendant
12 commented on it, would you see in what you get back from
13 Facebook the original thing that sparked the defendant's
14 comment?

15 A No.

16 Q Why not?

17 A I think Facebook wants to protect the privacy of its
18 users, and so it only provides the content for the person you
19 got the search warrant for.

20 Q Now, going back to Government's 802, in that first line,
21 what does that first set of numbers separated by hyphens mean,
22 2020-12-12?

23 A That's the date, December 12, 2020.

24 Q That it was posted on?

25 A Yes.

1 Q And how about the second set of numbers, 17:12:05 UTC,
2 what does that mean?

3 A That's the time, so 17:12 is 5:12 in the afternoon.

4 Q What does UTC mean?

5 A UTC, it's Coordinated Universal Time. It's the time that
6 Facebook provides all of its returns in. It's basically, I
7 think, the same thing as Greenwich Mean Time. And then it's up
8 to the investigator to figure out what that is in whatever time
9 zone you are in.

10 Q So if it was 17:12:05 UTC right at this moment, what time
11 would it be here in Washington, D.C.?

12 A At this moment?

13 Q Let me ask it a different way because of time zone and
14 daylight savings. Back in the winter, if we were rewinding to
15 December 12, 2020 and it was 17:12:05 in the afternoon, what
16 time would that be in D.C.?

17 A That would be 12:12 p.m.

18 Q Is it accurate to say to convert from UTC to Eastern Time
19 in the winter, you subtract five hours?

20 A Yes.

21 Q All right. What does the next line, status, mean?

22 A Status is kind of like, I guess, a caption of a photograph
23 that you can either put one or not.

24 Q So is that something the defendant added to the
25 photograph?

1 A Yes.

2 Q All right. What does the next line, mobile true, mean?

3 A I believe that means it was uploaded from a mobile device.

4 Q All right. And what's the significance of the ID number
5 and the photo ID number at the bottom?

6 A I believe those are numbers internal to Facebook. It
7 means maybe -- it's a way of identifying each item.

8 Q Okay. Now, looking at this photograph, do you recognize
9 the location where this photograph was taken?

10 A Yes.

11 Q Where is it?

12 A It's in Washington, D.C.

13 Q How do you know that?

14 A I can see the United States Capitol there where you are
15 drawing the blue circle.

16 Q Okay. In the background in the center?

17 A Exactly.

18 Q All right. And were you aware of any particular events
19 happening in Washington, D.C. on or about December 12, 2020
20 that would be related to this case?

21 A Yes.

22 Q And what is that?

23 A I believe that would be a rally, specifically a Stop the
24 Steal Rally for then President Trump.

25 Q And looking at the caption added by the defendant, An

1 afternoon with my fellow deplorables, does the word deplorables
2 in that sentence have any meaning to you?

3 A Yes.

4 Q How so?

5 A One of President Trump's opponents had referred to his
6 followers as a basket of deplorables.

7 Q Why did you pull this photograph out of the return? Why
8 did you consider it to have evidentiary value?

9 A Because it was a Stop the Steal Rally, and so I believe
10 that attendants at the Stop the Steal Rally would show that the
11 person believed the election in 2020 had been stolen and
12 perhaps provide some sort of motive for what happened on
13 January 6.

14 Q Is it possible that somebody could attend the rally and
15 not believe the election was stolen?

16 A Sure.

17 Q Let's now show you Government's 803.

18 All right. So here the metadata appears different. Is
19 the time notation, nevertheless, the same?

20 A Yes.

21 Q And it says type comments. Is that like what you were
22 referring to earlier, that you can comment on or add something
23 below someone else's content?

24 A Yes.

25 Q Did you receive the content the defendant was responding

1 to?

2 A No.

3 Q Here we see the defendant's reply sent on December 16,
4 2020 at what would have been about -- well, actually, I will
5 ask another question.

6 Where does the defendant live?

7 A Minnesota.

8 Q Is that where he was ultimately arrested?

9 A Yes.

10 Q How do you convert from UTC time to Minnesota time?

11 A That would be subtracting six hours instead of five.

12 Q So if the defendant posted this when he was in Minnesota,
13 that would have been just after midnight, right?

14 A Yes.

15 Q The comment said, Yes, because we are a country of fat,
16 lazy, armchair, quote, patriots. There aren't enough men who
17 will actually stand up and do what needs to be done.

18 Why did you consider that to be significant?

19 THE COURT: I'm not sure, in other words, if there's
20 something that's -- I'm not sure whether she considers it
21 significant is relevant. And if there's something that she
22 needs to interpret that's not common sense, that's okay, but
23 otherwise, I don't think we need that.

24 MR. GORDON: Fair, Your Honor. Then on some of these,
25 I am just going to publish them and read them without asking a

1 follow-up question.

2 THE COURT: Great.

3 BY MR. GORDON:

4 Q Moving on to Government's 804.

5 Agent Alvarez, please correct me if I sort of misstate
6 anything in doing these, but here we have a post from the
7 defendant on December 24, but it's rendered in UTC time in the
8 early morning hours, so this would have been, if in Minnesota,
9 posted very late in the evening on December 23, correct?

10 A Yes.

11 Q Okay. So here he replied to someone else's comment on a
12 post and wrote, We need real Patriots, capitalized, to actually
13 fight back.

14 In the course of this investigation, have you encountered
15 or experienced the word patriot particularly used as a proper
16 noun to mean something different or have shading other than its
17 usual, ordinary, everyday meaning?

18 A Yes.

19 Q Can you explain that.

20 A I think the people use the word patriot to mean someone
21 who thinks the current government is tyrannical and should be
22 overthrown.

23 Q Where do you draw that conclusion from?

24 A I mean, just in my experience in this case and my
25 experience in life, I have seen that word used that way. And

1 it seems to be also comparing themselves to the patriots in the
2 American Revolution and how that -- the government of the king
3 of England was overthrown by patriots.

4 Q Is this the only January 6 case you have worked on?

5 A No.

6 Q In other January 6 cases, have you also monitored social
7 media?

8 A Yes.

9 Q Have you also, whether in this case or others, have you
10 listened to interviews given by January 6 related defendants?

11 A Yes.

12 Q And have you seen or heard the word patriot used in the
13 manner you just described repeatedly?

14 A Yes.

15 Q Moving down to the second highlighted comment on this
16 page, Good, exclamation point. And he should be leading this
17 charge backed by millions of armed citizens demanding the
18 removal of every socialist politician.

19 Who do you understand the he to be in this comment?

20 A President Trump.

21 Q And where it says every socialist politician, are you
22 aware of any self-identified socialist politicians in Congress?

23 A Possibly one.

24 Q Which one would that be?

25 A Senator Sanders.

1 Q Other than Senator Sanders, do any congressmen that you
2 know of identify as socialist?

3 A No. The ones that I am aware of are majority either
4 republican or democrat with --

5 Q In the course of investigating this case and other
6 January 6 related cases, have you, nevertheless, encountered
7 the word socialist used in a particular or common or repetitive
8 fashion?

9 A Yes.

10 Q How have you seen it used?

11 A It seems to refer to democrats. Democrats.

12 Q Now, the third highlighted comment on this page, But when
13 a long train of abuses and usurpations pursuing invariably the
14 same objective evinces a design to reduce them under absolute
15 despotism, it is their right, it is their duty to throw off
16 such government and to provide new guards for their future
17 security.

18 Do you recognize those words beyond seeing them right here
19 in this Facebook post?

20 A Yes. It does have a quotation mark around it.

21 Q Where does it come from?

22 A The Declaration of Independence.

23 Q This part of the Declaration of Independence where the
24 authors justified their revolution?

25 A Yes.

1 Q Now showing you Government's 805, the highlighted sentence
2 says, The solution is also glaringly obvious for those who have
3 the courage to act. 3 percent.

4 What did you understand the 3 percent reference to be
5 here?

6 A 3 percent I took to mean a reference to the 3 percenters.

7 Q What are or who are the 3 percenters?

8 A Some people think that only 3 percent of people, around
9 the time of the revolutionary war, only 3 percent participated
10 in the uprising that led to the overthrow of the government of
11 the king of England. And they think that if only 3 percent of
12 today's current population would act, the same thing could be
13 achieved.

14 Q Have you seen that reference or that statement, 3 percent,
15 have you seen that associated with other calls to action in
16 other cases?

17 A Yes.

18 Q I am now showing you Government's 806.

19 Actually do something. Call him a traitor and a tyrant
20 publicly. Call for his immediate removal from office along
21 with the rest of the traitors.

22 Now the highlighted portion, Call on law enforcement to
23 disregard their unlawful orders and remove those from office
24 who are backing this BS. If they won't, call on the patriots
25 in this state to remove them. Then we place new safeguards for

1 our future. Very simple. When a tyrant SND his goons to
2 enforce unlawful decrees, the free men fight back and remove
3 the tyrant.

4 Would you focus on the second sentence in the highlighted
5 portion, If they won't -- they referencing the law enforcement
6 in the prior sentence. If they won't call on the patriots in
7 this state to remove them.

8 What did you understand that sentence to mean?

9 A The patriots, the people who think that the government is
10 tyrannical, would then act to remove the existing politicians
11 and replace them with politicians that the patriots think are
12 upholding the Constitution.

13 Q If law enforcement -- how would that happen logistically
14 if politicians -- following the track of this post, if the
15 politicians didn't immediately remove these other politicians
16 from office presumably by impeachment or some other method, and
17 law enforcement officers wouldn't remove them, how are,
18 quote/unquote, patriots supposed to do it?

19 MR. MOYERS: Objection, calls for speculation.

20 THE COURT: Okay. Sustained.

21 BY MR. GORDON:

22 Q I will move on to 807.

23 Why did you pull out this -- it spans two pages, but first
24 looking at page 3 of 807 where we see an article of Bongino.com
25 headlined, Senator Hawley pledges to object to election

1 certification on January 6, a comment below from an unknown
2 user that says, Senator Hawley is doing the right thing. I
3 just don't know if there will be enough in the sen, cutoff.

4 Then the defendant's response, I have a premonition.
5 Before January 6, he will die of a COVID-related,
6 self-inflicted gunshot wound to the back of the head. Tell me
7 I'm wrong.

8 Why did you pull this?

9 A It referred to the certification of the election taking
10 place on January 6.

11 Q And why was that important to pull out for the case?

12 A That was the event attended by the defendant where violent
13 assaults of law enforcement occurred, and so I just felt that
14 the reference to January 6 showed an awareness that the
15 election was being certified.

16 Q An awareness by the defendant?

17 A Yes.

18 Q Okay. 808, a post from -- it would have been January 1,
19 2021 in the late evening approximately, I guess, in Minnesota
20 time, that would have been about 6:17 p.m., correct?

21 A Yes.

22 Q Okay. Well, Nancy, that ain't the worst thing that's
23 going to happen to you this week.

24 Who did you understand the Nancy to be here?

25 A Then Speaker of the House Nancy Pelosi.

1 Q Okay. Seeing the post sic semper tyrannis posted
2 September 21, sic semper tyrannis posted again a different
3 time. This would have been the night before, January 31. Sic
4 semper tyrannis posted again on January 31 --

5 A December.

6 Q -- all appearing on Government's 808.

7 Did you see that phrase, sic semper tyrannis, repeatedly
8 in the defendant's posts?

9 A Yes.

10 Q How many times did you see that or comment on a post and
11 include that?

12 A I don't know, maybe ten. That might be underestimating.
13 I saw it often, but I didn't count them.

14 Q How about Government's 809? This appears to be a traffic
15 pattern map titled, First Amendment activity restricted
16 vehicular traffic, subtitled Tuesday, January 5, at 12:01 a.m.
17 through Wednesday, January 6 at 11:59 p.m.

18 First of all, do you recognize the area depicted in this
19 photo?

20 A Yes.

21 Q Where is that?

22 A It's in Washington, D.C., and it's the streets around the
23 United States Capitol.

24 Q Okay. Why did you pull this?

25 A Well, it pertained to January 6, and it showed that there

1 was -- that the area was restricted.

2 Q Pedestrians were still allowed on those streets, correct?

3 A Right.

4 Q The ones marked in purple in that prior exhibit, on 809?

5 A Right. That was for cars.

6 Q So if pedestrians were allowed, why was it important to
7 show that the defendant had posted or commented on a map
8 showing that cars weren't allowed?

9 A It just pertained to January 6, and I included everything
10 that pertained to January 6.

11 Q Okay. Moving on to 810, defendant's post, this would have
12 been from the evening of January 3, 2021, Let's be honest.
13 Most people are misinformed at best, willfully ignorant a
14 majority of the time. If you have truly done your research,
15 you know who the true enemy is. You understand that this is a
16 war that has been raging for generations spanning hundreds of
17 years. If you don't understand this, follow the money.

18 This is the highlighted portion.

19 Once you understand fixing the situation involves nothing
20 short of total rebellion, a redeclaration of independence, a
21 thoroughly cleansing of our political judicial system, complete
22 upheaval of the monetary system slash economy, a complete
23 destruction of the federal government and a new set of laws,
24 rules, and way of life put into place for this country. Well,
25 once you understand that, your framework and mind-set for what

1 is happening and what must be accomplished should become your
2 focus. All the rest of the noise is just that, noise. Find
3 those who truly understand what is happening and who is the
4 enemy. Find those who understand their end game and their
5 tactics. Surround yourself with those patriots who would lay
6 down their lives for this country. Prepare for what is coming
7 and be willing to act or get out of the way. Sic semper
8 tyrannis. This is our rallying cry and the measure of our
9 resolve. No more talk. DC 1/6/21.

10 Followed by five more invocations of sic semper tyrannis
11 on dates -- on that same date or the night before, all on 810.

12 Moving on to Government's 811, a post from the early
13 evening or late afternoon on January 3.

14 And to be clear, based on your investigation, do you know
15 where the defendant was on these dates, the first week of
16 January, basically December 31st to January 5?

17 A I don't know exactly.

18 Q When you say exactly, do you know what time zone he was
19 in?

20 A I think so. I think he was at home then.

21 Q Okay. Meaning in Minnesota?

22 A Correct.

23 Q All right. So this post, This was not the war we wanted.
24 We were content to live our lives in peace. But when thrust
25 upon us, we will fight with the ferocity and righteousness of a

1 thousand angels, that we and our children might live that peace
2 of prosperity that we sought out originally.

3 Scrolling to the end, We aren't mad. We are painfully
4 aware. Fight back. Support those who do. Get the hell out of
5 the way or prepare to defend yourself. There has been a storm
6 brewing, and it will sweep through this country very soon. Sic
7 semper tyrannis.

8 Sic semper tyrannis again, same date.

9 Now looking at the next post, No, he hasn't lost his mind.
10 This was a well-orchestrated plan with only one reasonable
11 response from all true patriots. Sic semper tyrannis.

12 Who did you understand the he to be in this post?

13 A President Biden.

14 Q And what did you understand the well-orchestrated plan to
15 be?

16 A The overthrow of that government.

17 Q Meaning the theft of the election?

18 A Right.

19 Q Okay. Another invocation of sic semper tyrannis on
20 January 3.

21 Moving on to 812, starting at the bottom -- and to be
22 clear, when you received these returns, do the posts come like
23 they appear here, in reverse chronological order?

24 A Yes.

25 Q So any individual page, we need to start at the bottom and

1 scroll up to follow the timeline, is that right?

2 A Right.

3 Q So we see invocations of sic semper tyrannis and 1/6/21 on
4 January 3, on January 4.

5 And then we see a comment on here, Time for some people to
6 decide which side they support.

7 And then one from January 7, Rebellion. Sic semper
8 tyrannis.

9 And finally, I didn't highlight this one, but on January 7
10 also, Coming? We are fully in it.

11 Did you understand that to be a reference to rebellion as
12 well?

13 A Yes.

14 Q Have you had an opportunity to interview Ms. Visnovec?

15 A Yes.

16 Q How did you do that, in person, over the phone, on video?

17 A Phone.

18 Q And how about Connor Finnigan, have you had a chance to
19 email him -- I'm sorry, not email, have a chance no interview
20 him?

21 A Yes.

22 Q How did you do that?

23 A It was by phone.

24 Q Did you also interview him by video?

25 A Yes, and also Ms. Visnovec once by video.

1 Q Were you able to confirm that Ms. Visnovec was in a
2 romantic relationship with the defendant on January 6?

3 A Yes.

4 Q What is the relationship between Connor Finnigan and the
5 defendant?

6 MR. MOYERS: Objection, calls for hearsay.

7 THE COURT: Sustained.

8 BY MR. GORDON:

9 Q Who do we see in Government's 813?

10 A That is a photograph of Mr. Mock and Ms. Visnovec.

11 Q Okay. Where are they?

12 A They are at the World War II Memorial in Washington, D.C.

13 Q What's the significance of them standing in front of the
14 Minnesota State Memorial?

15 A They are from Minnesota.

16 Q Based on the items of clothing that they are wearing, are
17 you able to tell what date this photograph was taken?

18 A Yes.

19 Q What date was that?

20 A January 6, 2021.

21 Q How do you know, based on the clothing, that it was
22 January 6?

23 A It's the same clothes they were wearing at the riots.

24 Q How do you know that?

25 A I mean, I recognize the clothing. I recognize the

1 sweatshirt with the pattern and the jacket and the things that
2 Ms. Visnovec was wearing also. I saw them later in the day.

3 Q Were you present in D.C. on January 6?

4 A No, sorry, I saw them in videos later in the day.

5 Q Wearing these same clothes?

6 A Exactly.

7 Q Moving on to 814, who do we see in 814?

8 A This is Mr. Mock and Connor Finnigan.

9 Q What's the significance of them standing in front of the
10 Virginia Memorial?

11 A They are both originally from Virginia.

12 Q And now looking at Government's 817, posts from January 8,
13 starting at the bottom as it came first in time, I went to the
14 Capitol not knowing what to expect but said good-bye to my four
15 children, not sure if I was going to come home. I was at peace
16 with that knowledge. I held my own and then some.

17 And then he says, When I watched Capitol Police beating
18 women and old men.

19 13 minutes later he writes, I'd lay down my life for this
20 country, but I really have my doubts. I was glad to see all
21 the people there, but not a lot of real fighters.

22 Did you also receive -- in addition to the Facebook
23 return, did you receive any videos that were posted on
24 Facebook?

25 A Yes.

1 Q How did you get that?

2 A It was from somebody who left a tip. They sent the video.

3 Q Pulling up Government's Exhibit 815, is this the video
4 that you were sent via the tipster?

5 A Yes.

6 Q Does this video contain anything added to it in addition
7 to the video that you received from the tipster? In other
8 words -- I will stop here. I will play the audio in a moment
9 but not next.

10 Do you see the words that appear in the thought bubble?

11 A Yes.

12 Q Did the tipster add those?

13 A No.

14 Q Did they come with the original individual?

15 A No.

16 Q Did the government add those?

17 A Yes.

18 Q Do they fairly and accurately reflect the words that are
19 said in the video?

20 A Yes.

21 Q Did we put them there for the ease of everyone listening?

22 A Yes.

23 MR. GORDON: Okay. Now I will play Government's
24 815.a.

25 (The videotape was played.)

1 BY MR. GORDON:

2 Q On the part of the video where it said inaudible, after
3 listening to this many times, have you been able to actually
4 understand those words?

5 A I think I do.

6 Q And what did the defendant say then?

7 A I think he said crispy.

8 Q All right. So after going through all this Facebook
9 evidence that you received, what was your next step in the
10 investigation of this case?

11 A I authored a criminal complaint and obtained an arrest
12 warrant for Mr. Mock and also a search warrant for his
13 residence.

14 Q Did the original complaint you drafted contain all the
15 same charges that the defendant currently faces at trial?

16 A No.

17 Q Why not?

18 THE COURT: I'm not sure, is that relevant?

19 MR. GORDON: That's fine, Your Honor. It's more of a
20 public-facing explanation for people who doubt why we do the
21 things we do and how it works, but...

22 THE COURT: Maybe not even in a jury trial, but don't
23 need it in a bench trial.

24 MR. GORDON: That's fair, Your Honor. All right.
25 Strike that question.

1 BY MR. GORDON:

2 Q Did you execute or did FBI agents execute those arrests
3 and search warrants that you just mentioned?

4 A Yes.

5 Q And when did that happen?

6 A June 11, 2021.

7 Q During the course of that, executing that search warrant,
8 was Mr. Mock successfully arrested?

9 A Yes.

10 Q Was he cooperative?

11 A Yes.

12 Q During the course of the search warrant, did agents find
13 the clothing in the house that he is shown wearing in the
14 photographs we just looked at and the videos you referenced?

15 A Yes.

16 Q Can you give us some examples of what was found?

17 A Yes. They found the sweatshirt, and there was also -- it
18 wasn't seen in the Facebook photographs that we just looked at,
19 but there was a neck gaiter that was found that was worn -- it
20 was seen in the videos later on January 6, so that was found.
21 There's a black backpack that had a white Nike logo on it, and
22 that was found.

23 Q You see that in the videos even if we didn't see it in
24 those two pictures?

25 A Yes.

1 Q And that was found in the house as well?

2 A Yes.

3 Q In addition to clothing, did agents seize anything else
4 that was of significance for evidence?

5 A Yes.

6 Q What's that?

7 A There were two cell phones. There were also two laptops.

8 Q Okay. Were those devices searched pursuant to search
9 warrants as well?

10 A Yes.

11 Q Did you find anything of evidentiary significance on the
12 cell phone?

13 A Yes.

14 Q What did you find that was relevant?

15 A There were text messages and there were photographs and
16 also some videos.

17 Q In just a moment I am going to show you Government's 903
18 through 909. Starting with 903, is this how the messages
19 appeared when you searched the phone?

20 A Not in the extraction that I produced when I executed the
21 phone search warrant. It doesn't look that way.

22 Q Okay. Did the government produce this format that we are
23 looking at here?

24 A I don't -- I mean, I'm not --

25 Q Did the trial team, the prosecutorial team, produce these?

1 A Oh, I'm sorry, yes. I thought you meant production.

2 Q Did we make this?

3 A Yes. Yes, we did.

4 Q Are the contents fair and accurate reflections of the data
5 that you pulled off the cell phone?

6 A Yes.

7 Q What's the benefit of doing it this way?

8 A It's easier to read than the original phone report.

9 Q When you pulled the data off the phone, does the -- how
10 does the time appear?

11 A It comes out in UTC again like Facebook.

12 Q Are these exhibits in UTC time, or are they in a converted
13 time?

14 A They are converted.

15 Q What time zone are they converted to? Are they always in
16 the same time zone or are they different?

17 A Converted to the time zone where the activity was taking
18 place.

19 Q Where the defendant was located?

20 A Where the defendant was, yes.

21 Q So if you believe the defendant was texting with somebody
22 who was in a different time zone than he was, which time zone
23 are the texts rendered in?

24 A The defendant's one.

25 Q All right. So looking at the top line of

1 Government's 903, it says, Defendant's text messages with
2 Connor Finnigan, quote, Connor SP. Why is Connor SP in quotes?

3 A It's how the -- how Mr. Finnigan's name was saved in
4 Mr. Mock's phone.

5 Q So the gray messages, are those ones that were sent by
6 Connor Finnigan?

7 A Yes.

8 Q And the blue by the defendant?

9 A Correct.

10 Q All right. I would like to publish these by you and I
11 reading them. I will read the defendant if you would be so
12 kind as to read Mr. Finnigan.

13 A Okay. So where did you get that pic?

14 Q With my camera.

15 A You went to D.C. without me?

16 And then an hour later it says, Radio silence.

17 Q Yeah, I brought the chick.

18 A Nice. Has she seen the museums and memorials before?

19 Q That rally is actually really small, so it's just kind of
20 eh. She was here in eighth grade.

21 A Yep, we are a country full of keyboard queens and
22 switch-flicker bitches.

23 And then, Glad you went.

24 You seemed hyped but didn't know if you would be
25 disappointed by the turnout.

1 Q Same date, December 11, 2020, same conversation continued.

2 Your turn.

3 A Is she a patriot, or does she avoid that type of stuff?

4 Fuck, I miss the history back home so fucking bad. I
5 gotta get back to splitting. Have fun. Don't assault any
6 Antifa fuck wads.

7 Q Oh, yeah. She grew up in upstate New York, and I'll
8 probably get arrested. Just saying. Numbers will be low so
9 they would be emboldened.

10 A Nice. She seems to get a check on all the boxes. Hope
11 you brought bail cash plus those gloves.

12 Q Brought the gloves. Got money in the bank for bail.

13 A Nice.

14 Q In the second message, what did you understand splitting
15 to refer to?

16 A Mr. Finnigan has a job that involves firewood, so I
17 thought he meant splitting logs.

18 Q Further conversation on that same date, December 11, this
19 is now Government's 904.

20 A Well, it's over. SCOTUS just denied Tex case.

21 Q Yeah, BS. However, they could take the individual ones.

22 A I'm starting to suffer from fuckititis. We just need to
23 split into two countries, hopefully without a civil war.

24 Q Yep, 70 million should just not work for the next three
25 months.

1 A Let 'em run out of other people's money, interesting.

2 Are you going back to D.C. for the January 6 rally?

3 Q Just to be clear, we moved on to Government's 905, texts
4 from December 20.

5 Go ahead.

6 A Sorry. Are you going back to D.C. for the January 6
7 rally?

8 Q Strongly considering it. So do you want to drive out here
9 to D.C. for the 6th?

10 A I'm broke and waiting for Jan logs. I would love to,
11 though, because I'm not busy and could go.

12 Q On to Government's 906, now from December 31, 2020.

13 A Man, have you seriously thought this through? I'm sure
14 she's more badass than half the guys walking around, but she's
15 a fucking mother. I do not feel right at all putting her at
16 risk. Her kids need her safe. This shit could seriously go
17 south fast. She has kids. I can take whatever comes my way.
18 I have lived my life, and nobody depends on me. If I go, I am
19 going to be there for you. I would take a fucking bullet to
20 keep you here for your kids' sake. Too many variables added.
21 I'm not doubting her at all. Please just think about it some
22 more, man.

23 Q She ain't going, but I can't promise that she won't jump
24 in the car when we go to leave. If you come out on Sunday, we
25 can hang out with her and AJ Sunday night and take off on

1 Monday. We'll be there a day before. The Proud Boys are
2 already there. I got to try to find a hotel room somewhere
3 around there.

4 A She best have a very bad side that is ready to kill or be
5 killed. It's that fucking simple.

6 Q Moving on to Government's 907, messages on January 2,
7 2021.

8 A I'm not going to be able to make it. I just can't afford
9 it financially. Got logs coming Monday. Sorry, man. I'm not
10 happy about this.

11 Q Yeah, and she'll still adore you when you get back.

12 A I'll be worthless if she doesn't.

13 Q You'll be fine.

14 A Can I bring my dog and leave him at your place if I bring
15 a crate?

16 Q Yeah, he's going to be stuck in there while AJ's at work?

17 A I can't go, man. I tried everything I could, but she
18 needs me to stay. Things are very tough for her right now.
19 She's nearly breaking, and she would worry and stress the whole
20 time I'm gone. I'm so sorry, man. You know how bad I need to
21 be there. You know I want to be there for you. Please try to
22 get Ms. D to go WU.

23 Q Going on to January 2, Government's 908.

24 If I don't come back, just make sure AJ does the right
25 thing with all my stuff.

1 Before I move on, do you know who the reference to AJ is
2 referencing?

3 A Yes.

4 Q Who is that?

5 A That is one of the defendant's sons, Anthony James, AJ.

6 Q If I don't come back, just make sure AJ does the right
7 thing with all my stuff.

8 A I know you will do what's right.

9 You should send me instructions, though I won't have any
10 say legally.

11 Q Well aware.

12 A Oh, okay. Sorry.

13 Q It's been on at least two dozen TikToks and all over
14 Facebook -- or FB. You should get on the patriot party page.

15 Now Government's 909, messages from January 6, 2021.

16 Look down.

17 A Fuck, yeah.

18 Q AJ says I made the news.

19 A Yes.

20 Q Got sprayed directly three times, took a flash-bang, and
21 took down at least six cops.

22 A I got clubbed and had to go over the wall to regroup but
23 made it up here.

24 Q Nice. I took three gates, two shields, and a bunch of
25 equipment. I shouldn't have thrown them.

1 A Nice. Gotta get souvenirs. They are bashing windows and
2 stole mace canons and dragged a cop out to the point above you.

3 Q Sweet.

4 Now, from reviewing video in this case, have you been able
5 to determine approximately where the defendant was at the time
6 he was sending these texts around 3:37, 3:38 in the afternoon?

7 A Yes.

8 Q Where was he?

9 A I believe he was on the lower west terrace outside of what
10 they call the tunnel entrance.

11 Q Okay. And similarly, have you been able to determine
12 where Connor Finnigan was at about the same time?

13 A Yes.

14 Q Where was he?

15 A I believe that he was -- he had climbed the scaffolding
16 nearby.

17 Q So is that above where the defendant would be in eye line
18 of each other?

19 A Yes.

20 Q Are these the only text messages that you pulled or that
21 you received?

22 A No.

23 Q Did you have any text messages with AJ?

24 A Yes.

25 Q How did you get those?

1 A They were sent to me by AJ's mother and then later by AJ
2 himself.

3 Q Okay. Showing you Government's 910, are these the text
4 messages that you received from AJ and from his mother?

5 A Yes.

6 Q Okay. I would like to publish these as well. Again, I
7 will read the defendant if you would read AJ.

8 A Okay.

9 Q How do we, by the way, tell by looking at these whose are
10 whose?

11 A So Mr. Mock's are centered on the left side, and they are
12 a lighter color. And then the ones from AJ are anchored
13 towards the right, and they are darker.

14 Q Okay. Hope everything is going well.

15 A I'm fine. What about you? Are you dead?

16 Q Yes. This is how I'm haunting you.

17 Later, about five hours later.

18 A News is saying the riot is over or at least clearing.

19 Q Sort of.

20 A Are you okay?

21 Q It was a hell of a fight.

22 A What happened?

23 Q We got gassed bad. Misty got hurt a little. Me and
24 Connor got clubbed. I got mine.

25 A You got what?

1 Q I did some damage.

2 A What you guys did today was treason and a Homeland
3 Security threat. In all reality, everyone there should be
4 locked up for the rest of their lives, including you.

5 Q You have got to be kidding me. We showed up and it was
6 peaceful, and then they gassed and attacked people.

7 A You stormed the fucking Capitol.

8 Q They started the violence and now they understand the
9 measure of our resolve.

10 A You have four kids at home. What the hell made you think
11 this was a good idea. If that was a BLM protest, everyone
12 would have been killed with no questions asked.

13 Q You actually believe that. Sad.

14 What did you understand the reference to BLM to be?

15 A Black Lives Matter.

16 Q Okay. Did you also find text messages, relevant text
17 messages, from after January 6?

18 A Yes.

19 Q All right. Now showing you Government's 911 and 912.
20 Beginning with 911, same drill, I will read the defendant if
21 you will read Krista. Do you know who Krista is?

22 A No.

23 Q Okay. Is that how she was saved -- or this person was
24 saved in the defendant's phone?

25 A Yes.

1 Q Okay. From January 7, 8:14, We should have a chat when I
2 get back from D.C. Only a few people who I'll talk to about
3 what I saw.

4 A Swampy things, I'm sure.

5 Q Oh, it was intense and definitely some shady S. I was in
6 the thick of it.

7 A Why were you there?

8 Q I was compelled to go stand up to corrupt, fascist tyrants
9 and say F you, me and my best friend and the new GF. She's
10 kind of a bassass, LOL.

11 A I don't know what you have experienced, but the media have
12 made Trump look terrible.

13 Q Yep, all BS.

14 Now on to 912.

15 A I heard Antifa was there.

16 Q 100 percent.

17 A Shame.

18 Q Saw them. Watched them operate. Confronted them.

19 A So the dems were behind this?

20 Q The police let people in and then started the violence.

21 Tear gas and flash-bangs into a peaceful crowd full of old
22 people, women, and children. I watched them beat a woman and
23 several old men. That's when I got involved.

24 A We are fucked. You definitely saw a piece of history.

25 Q We are completely fucked. Out of that group, only a

1 handful are actual fighters. I could get arrested for my piece
2 of history.

3 A Trump is not going to the inauguration.

4 Q I hope he calls in a tactical nuke.

5 I made the LA Times.

6 Look above the hands of the cop using pepper spray, camo
7 hoodie, and face mask.

8 A Wow. Look at that crowd. I'm super sad how jacked up our
9 country is.

10 Q You have no idea. None of the pics do it justice. There
11 were so many people.

12 A So many Trump people, right? Civil war.

13 Q No. Land of the soft. I have zero faith in people to
14 actually organize and fight.

15 A What? Dems? Tell me the picture is Trump people.

16 Q I have been to the last two rallies. The conservatives
17 talk a lot.

18 Oh, yeah. There had to have been over a million Trump
19 supporters and whatever Antifa was mixed in.

20 A Explain the photo.

21 Q These my best friend took from the top of the scaffolding
22 at the Capitol looking all the way down Constitution and
23 Pennsylvania Avenue to the Washington Memorial and White House.
24 I was in the center where the first fighting with police took
25 place. Then it moved to the upper area where you see the

1 windows broken out and the worst violence.

2 A Amazing.

3 Q In the front, the police just let people in, presumably
4 Antifa and plants.

5 A Super sketchy. I hate it.

6 Q This is when it was clearly peaceful and you can hear them
7 firing on the crowd.

8 Videos ain't great, but we literally got gassed and
9 sprayed dozens of times. All three of us left dinged up. I'm
10 pretty proud of us for going and literally fighting for our
11 country. My new GF is a badass.

12 A I'm proud of you. You need a badass.

13 Q Thank you. Now I'm just showing off. She's a cute
14 badass, conservative, strong, intelligent, adores me for some
15 reason. We literally have everything in common.

16 You had also mentioned that you pulled videos from the
17 cell phone?

18 A Yes.

19 Q Before I show them, take a look at what's on your screen
20 in front of you. Do you see where I have highlighted where it
21 says Government's 913 --

22 A Yes.

23 Q -- and then hyphen hyphen?

24 Those words that follow, VID underscore 20210106
25 underscore 140352763, and then a tilde 2, what is the

1 significance of that file name?

2 A It indicates the date and time that the video was taken.

3 Q Is that how the data came off the phone, with that file
4 name?

5 A Yes.

6 Q So you didn't create that? The government didn't create
7 that file name?

8 A Right.

9 Q Okay. Can you explain the significance of the numbers in
10 the file name?

11 A It's the date. So the year 2021, 0106, so January 6, and
12 then it's the time, 1403, which is 2:03 p.m., and then, I
13 guess, seconds.

14 Q Seconds and milliseconds?

15 A Right.

16 Q Okay. So in other words, if we look at the file name for
17 these videos, does that tell us exactly when the video was
18 recorded by the user of the cell phone?

19 A Yes.

20 Q So first, let me show you Government's 913, a video
21 recorded on January 6 then at 2:03 p.m. Is that correct?

22 A Yes.

23 (The videotape was played.)

24 BY MR. GORDON:

25 Q Now, did you hear the loud beeps in the middle of that

1 video?

2 A Yes.

3 Q Were you able to hear what they were connected to, what
4 they were associated with?

5 A Yes.

6 Q What was that?

7 A It was an announcement being made.

8 Q Were you able to hear what was said in the announcement?

9 A Yes.

10 Q What was said?

11 A It said, This is the Metropolitan Police. This area is
12 now a restricted area.

13 Q Okay.

14 MR. GORDON: Would the Court like to play that begin,
15 or did you hear it?

16 THE COURT: Yes.

17 MR. GORDON: I'm sorry, was that a yes, play it again
18 or no?

19 THE COURT: No need to play it again.

20 MR. GORDON: Thank you, Your Honor.

21 BY MR. GORDON:

22 Q Based on the video, were you able to determine -- based on
23 this video and other video you have watched, were you able to
24 figure out where the defendant was when he recorded this video?

25 A Yes.

1 Q Where was he?

2 A On the lower west terrace.

3 Q Okay. Lower west terrace is a big area.

4 A Right.

5 Q Can you be more specific about where he was?

6 A As you are facing it, on the left side.

7 Q Near where the assault against Officer Collins took place?

8 A Yes.

9 Q Video is recorded at 2:03 p.m. Do you recall what time
10 the assault against Officer Collins took place?

11 A It was at about 2:29.

12 Q So this is recorded 26 minutes before that?

13 A Yes.

14 Q I am now going to show you Government's 914.a.

15 (The videotape was played.)

16 BY MR. GORDON:

17 Q Now looking at 914, the source video for 914.a, can you
18 read what time that video was recorded at.

19 A It was at 14:22 hours, so 2:22 p.m.

20 Q So approximately seven minutes before the assault against
21 Officer Collins?

22 A Yes.

23 Q In the video when defendant pans to show the police line,
24 is that the same police line that Officer Collins was in?

25 A Yes, I believe so.

1 Q Now going to Government's 915, what time was this video
2 recorded at?

3 A 14:54, so that's 2:54 p.m.

4 (The videotape was played.)

5 BY MR. GORDON:

6 Q Was this video recorded after all four assaults had
7 occurred?

8 A Yes.

9 Q Was this video recorded on the area that Officer Karlsen
10 and his team had vacated?

11 A Yes.

12 Q Okay. Now 916, what time was this video recorded?

13 A 17:16 hours, so 5:16 p.m.

14 (The videotape was played.)

15 BY MR. GORDON:

16 Q Now, in addition to just being a video from the
17 defendant's cell phone and showing him on the plaza at 5:16,
18 did this particular video have any other significance or
19 usefulness for you in this investigation?

20 A Yes.

21 Q Can you explain what that was.

22 A Well, in the video, he is turning, so taking a video kind
23 of all the way around him, and there were, like, objects that
24 appeared in the video that were useful.

25 Q Useful how?

1 A Just to place where -- place the defendant's location so
2 that he could be seen in other videos taken at the same time.

3 Q In other words, were you able to use those as landmarks to
4 then find him in other videos?

5 A Right.

6 Q All right. Then we are going to transition --

7 MR. GORDON: Your Honor, if you are looking for a good
8 stopping point, this is one.

9 THE COURT: Okay. Let's do that. Take a ten-minute
10 recess now. Thank you.

11 (A recess was taken at 10:46 a.m.).

12 THE COURT: Okay. Whenever you're ready, Mr. Gordon.

13 MR. GORDON: Thank you, Your Honor.

14 BY MR. GORDON:

15 Q Agent Alvarez, when we left off, you were describing how
16 you used that final cell phone video to locate the defendant in
17 other videos.

18 A Yes.

19 Q Was one of those videos from the Capitol surveillance
20 camera mounted on top of the Capitol dome?

21 A Yes.

22 Q Is that the view we are looking at here in
23 Government's 105.a?

24 A Yes.

25 Q Now, I have advanced the video to 5:16 p.m. running the

1 time counter. Beginning here, I want you to watch this video
2 and tell me when you see the defendant make the same action,
3 the same spinning action that you had described -- that you saw
4 in that cell phone video and you see the object move across his
5 face that allowed you to find that moment in time.

6 (The videotape was played.)

7 THE WITNESS: Right now.

8 MR. GORDON: Just let the record reflect that at
9 5:16:34 p.m. we see the defendant slowly rotating in circles,
10 the flag across his face.

11 BY MR. GORDON:

12 Q All right. From there, were you able to trace the
13 defendant's movements backward in time and sort of find him on
14 this camera throughout his time on the west plaza?

15 A Yes.

16 Q All right. I am going to play this video from the
17 beginning. During this time, did you see the defendant, during
18 the 5:00 hour, see the defendant commit any other crimes in the
19 video?

20 A No. I mean, other than being in a restricted area, I
21 guess.

22 Q Fair. I am going to play back the video at five times
23 speed then to show the defendant's actions and presence after
24 5:00. And I will stop it periodically.

25 (The videotape was played.)

1 BY MR. GORDON:

2 Q I have stopped it at 5:05 p.m. and 49 seconds. Do you see
3 the red box in the lower right corner?

4 A Yes.

5 Q Is that around the defendant?

6 A Yes.

7 (The videotape was played.)

8 BY MR. GORDON:

9 Q I have now paused it at 5:06:22 p.m. Do you see something
10 in his right hand?

11 A Yes.

12 Q Based on this video, do you know what that is?

13 A Based on this video, no.

14 Q Were you able to then find other angles and figure out
15 what was in the defendant's hand?

16 A Yes.

17 Q So I'm now going to move on to Government's Exhibit 518.6.
18 The person circled in red, is that the defendant?

19 A Yes.

20 Q Okay. What's he holding in his right hand?

21 A It looks like a wooden baton.

22 Q From tracing the defendant, is that the same object he
23 appears to be holding in the video that we were watching
24 previously?

25 A I believe so.

1 Q And what's he wearing around his head?

2 A Goggles.

3 Q All right. Back to 105.a.

4 (The videotape was played.)

5 BY MR. GORDON:

6 Q Actually, I need to back up slightly. I am going to slow
7 this down just a little bit.

8 Do you see the officers clear that space where the
9 defendant was standing?

10 A Yes.

11 Q Are you able to tell what they used, these officers here
12 (indicating)? See that flash on the screen?

13 A Yes.

14 Q And then the smoke that billowed up?

15 A Yes.

16 Q Did you see the defendant retreat in response to that?

17 A Yes.

18 Q Okay. Do you know from your law enforcement experience
19 what it was the officers deployed at that moment?

20 MR. MOYERS: Objection, calls for speculation.

21 THE COURT: Overruled. She might know.

22 THE WITNESS: So the bang looks to me like a
23 flash-bang.

24 BY MR. GORDON:

25 Q What's a flash-bang?

1 A Well, I don't use them, but I am aware that our SWAT team
2 uses them. It is something that makes an extremely loud noise
3 and a bright light, and it's used in life risk situations.

4 And the smoke -- I don't know if that was a device that
5 had some sort of CS gas or pepper spray in it or if that was
6 used separately, but the clouds of smoke look like some sort of
7 chemical irritant used for crowd control.

8 Q So do you see these officers using that to clear the area
9 where the defendant was?

10 A Yes.

11 Q Okay. Resuming playback.

12 That was, for the record, I had paused that at
13 5:06:54 p.m.

14 BY MR. GORDON:

15 Q I have drawn a line now here just to the left of the
16 officers. When they deployed that, did you see the defendant
17 retreat down that pathway where I have drawn the line?

18 A Yes.

19 Q Is that the same staircase Officer Karlsen indicated that
20 he had retreated up after the defendant pushed him?

21 A Yes.

22 (The videotape was played.)

23 BY MR. GORDON:

24 Q Okay. You will see the defendant reemerge from that
25 staircase area. Does the red box continue to show the

1 defendant?

2 A Yes.

3 Q See him bend over at the knees?

4 A Yes.

5 Q All right.

6 (The videotape was played.)

7 BY MR. GORDON:

8 Q I am going to skip ahead a bit. I have skipped to the 10
9 minute mark of the video, which is about 5:14 p.m. Is the
10 defendant still located on the west plaza?

11 A Yes.

12 Q Skip ahead to the 16 minute mark of the video, about
13 5:20 p.m. Is the defendant still in the west plaza?

14 A Yes.

15 Q Skip ahead to 5:25 p.m. Is the defendant still in the
16 west plaza?

17 A Yes.

18 Q Is that about the time we lose sight of him on the video?

19 A Yes.

20 Q Okay. I am now going to take you through a long series of
21 videos that we have collected in this case and ask you if you
22 see the defendant in the video, if you recognize him in the
23 video.

24 So we are going to go chronologically event by event. So
25 beginning with Government's Exhibit -- it will be videos and

1 photographs. Beginning with Government's Exhibit 401.4, do you
2 recognize the defendant in Government's 401.4?

3 A Yes.

4 Q See the man in the red circle?

5 A Yes.

6 Q Do you see the camo hoodie?

7 A Yes.

8 Q How about in Government's 401.7, do you see the defendant
9 in 401.7?

10 A Yes.

11 Q See the man with his hands on the barricade --

12 A Yes.

13 Q -- circled in red?

14 Now, going to Government's 510.2. See the red circle in
15 the bottom right corner of the screen?

16 A Yes.

17 Q Who is that circled?

18 A That's the defendant with the camo hoodie.

19 Q Is that him at the moment in time that he's removing the
20 barricade?

21 A Yes.

22 Q All of these photographs that I am showing, are these
23 still photographs that were obtained as still photographs, or
24 are they screenshots from videos?

25 A Screenshots from videos.

1 Q Now moving on to the assault we are referring to as
2 assault No. 1, the one charged in Count 3. Starting with
3 screenshot at 101.2, is the person circled the defendant?

4 A Yes.

5 Q And now 101.3, is the person circled the defendant?

6 A Yes.

7 Q Is that the same camera mounted on the top of the Capitol?

8 A Yes.

9 Q Now showing you 101.a, is the man circled the defendant?

10 A Yes.

11 (The videotape was played.)

12 BY MR. GORDON:

13 Q At the 27 second mark, did you see him extend his right
14 foot?

15 A Yes.

16 Q Now going to 101.b, is the man circled in yellow the
17 defendant?

18 A Yes.

19 (The videotape was played.)

20 BY MR. GORDON:

21 Q Moving on to 401.8, is that the defendant?

22 A Yes.

23 Q Circled in red?

24 A Yes.

25 Q 401.b.

1 MR. GORDON: Your Honor, just for the Court's
2 reference, if it's helpful, the way that we have designated
3 these is that the beginning number is the source video, so 401,
4 and then if there's a decimal number afterwards, that refers to
5 a screenshot. Decimal letter afterwards refers to a clip of
6 the underlying video.

7 THE COURT: Okay.

8 BY MR. GORDON:

9 Q So let's look at 401.b.

10 (The videotape was played.)

11 BY MR. GORDON:

12 Q I will play that again starting from the beginning. Can
13 you use your screen and circle the defendant for us.

14 A (Indicating.)

15 MR. GORDON: Let the record reflect the witness
16 circled the man wearing the camo hoodie and the face mask in
17 the upper left corner.

18 (The videotape was played.)

19 BY MR. GORDON:

20 Q Now 401.d -- I'm sorry. Yeah, 401.d.

21 (The videotape was played.)

22 BY MR. GORDON:

23 Q Now moving on to the 402 series. 402.2 first. Is the man
24 circled in red the defendant?

25 A Yes.

1 Q Is that -- in 402.3, is that the defendant?

2 A Yes.

3 Q 402.a.

4 (The videotape was played.)

5 BY MR. GORDON:

6 Q I will play that again and pause. I have circled the man
7 in the center with the camo hoodie. Is that the defendant?

8 A Yes.

9 (The videotape was played.)

10 MR. GORDON: 402.b next.

11 (The videotape was played.)

12 MR. GORDON: Now for the 500 series on the same
13 assault, assault 1. First 505.a.

14 (The videotape was played.)

15 BY MR. GORDON:

16 Q Let me start that over. I want you to -- can you use your
17 screen and circle the defendant?

18 A (Indicating.)

19 MR. GORDON: Let the record reflect I paused it at the
20 one-second mark, and Agent Alvarez indicated the man in the
21 center right of the screen with the dark hoodie and the black
22 jacket reaching out towards the crowd there.

23 (The videotape was played.)

24 MR. GORDON: Next up, 509.a.

25 (The videotape was played.)

1 BY MR. GORDON:

2 Q I will play it again. Can you indicate the defendant on
3 your screen?

4 A (Indicating.)

5 MR. GORDON: Let the record reflect Agent Alvarez drew
6 a circle around the man with the olive green or camo hoodie in
7 the middle of the screen.

8 BY MR. GORDON:

9 Q Did you see him place his left hand on the back of the man
10 in front of him, extend his right leg, and kick?

11 A Yes.

12 MR. GORDON: 509.b.

13 (The videotape was played.)

14 BY MR. GORDON:

15 Q Paused two seconds in. Can you circle the defendant?

16 A (Indicating.)

17 MR. GORDON: Let the record reflect Agent Alvarez has
18 indicated the same man, dark black jacket, olive green hood,
19 next to a man in a lighter green jacket and a white hood.

20 (The videotape was played.)

21 MR. GORDON: And finally, for assault 1, 510.a.

22 (The videotape was played.)

23 BY MR. GORDON:

24 Q Did you see the defendant in that one? In other words, do
25 you recognize the man here that I have indicated near the fence

1 line?

2 A Yes.

3 (The videotape was played.)

4 BY MR. GORDON:

5 Q Did you see the white mark on the backpack?

6 A Yes.

7 Q What is that mark?

8 A That was the Nike logo.

9 MR. GORDON: All right. Now moving on to the videos
10 and photographs of assault No. 2, the assault charged in
11 Count 5.

12 Beginning again with the Capitol CCTV cameras,
13 starting with still photos again -- I should clarify. This is
14 charged actually in Counts 5, 8, 9, and 10.

15 BY MR. GORDON:

16 Q Is the man circled in 103.1, is that the defendant?

17 A Yes.

18 Q The person in the left circle in 103.2, is that the
19 defendant?

20 A Yes.

21 Q And in 103.3, is that the defendant?

22 A Yes.

23 MR. GORDON: All right. Now, 102.a.

24 (The videotape was played.)

25

1 BY MR. GORDON:

2 Q I want you to focus on this area here (indicating). I
3 have drawn a circle around the officers gathered in the
4 left-hand corner, what would be the southwest corner of the
5 lower west terrace -- or southeast, I suppose.

6 (The videotape was played.)

7 BY MR. GORDON:

8 Q Did you see the assault occur in the 26 second mark of the
9 video?

10 A Yes.

11 Q What is this assault? What happens?

12 A The defendant breaks off a piece of a flagpole and then
13 throws it towards the officers.

14 Q I will just play that segment again beginning at the 23
15 second mark.

16 (The videotape was played.)

17 BY MR. GORDON:

18 Q And running to the 27 second mark.

19 Now going to 103.b, is the person circled in yellow the
20 defendant?

21 A Yes.

22 MR. GORDON: Okay. Now moving to the 400 series.
23 First 401.9.

24 BY MR. GORDON:

25 Q Is that the defendant circled in red?

1 A Yes.

2 MR. GORDON: Okay. 401.c.

3 (The videotape was played.)

4 BY MR. GORDON:

5 Q Okay. Did you see the flagpole thrown? Can you circle
6 the area where it happens where we should focus our attention.

7 A It's like (indicating).

8 MR. GORDON: Let the record reflect the witness has
9 drawn a circle basically above the tops of the heads of the
10 officers.

11 (The videotape was played.)

12 MR. GORDON: Moving on to the 500 series.

13 First 511.a.

14 (The videotape was played.)

15 BY MR. GORDON:

16 Q Did you just see the flagpole thrown in 511.a?

17 A Yes.

18 MR. GORDON: Let's go to 511.d.

19 (The videotape was played.)

20 BY MR. GORDON:

21 Q The person outlined in white or in yellow, is that the
22 defendant?

23 A Yes.

24 MR. GORDON: Moving to 512.a.

25 (The videotape was played.)

1 BY MR. GORDON:

2 Q I paused at the 4 second mark. I circled the person in
3 the center with the olive green hood and the hand on the
4 flagpole. Is that the defendant?

5 A Yes.

6 Q This group of officers standing on the ledge here, is
7 there an investigation to determine what agency or agencies
8 they were associated with?

9 A Yes.

10 Q And what agency or agencies is that?

11 A Washington Metropolitan Police Department.

12 MR. GORDON: 513.a.

13 (The videotape was played.)

14 BY MR. GORDON:

15 Q Easy to miss. Tell us where to look.

16 A (Indicating.)

17 Q Did you see it here (indicating)? Does the flagpole fly
18 there in that area?

19 A Yes.

20 MR. GORDON: Okay. That does it for assault No. 2.

21 Moving on to assault No. 3, the assault charged in
22 Count 6. 103.4.

23 THE COURT: I'm sorry, the flagpole assault is charged
24 in Counts --

25 MR. GORDON: 5, 8, 9, and 10.

1 THE COURT: Thanks.

2 BY MR. GORDON:

3 Q All right. And the people circled in red, I have sort of
4 drawn an arrow very poorly directed at this person in the hood.
5 Do you recognize that person?

6 A Yes.

7 Q Who is that?

8 A The defendant.

9 Q Okay. Do you see these people that I have indicated near
10 him wearing all black and helmets?

11 A Yes.

12 Q Who are they?

13 A U.S. Capitol Police officers.

14 MR. GORDON: Okay. Moving on to 103.5.

15 (The videotape was played.)

16 BY MR. GORDON:

17 Q Is that the defendant still in the same position?

18 A Yes.

19 Q Okay. Now, can you tell in 103.5 who the person is
20 standing directly in front of him with his or her back to the
21 defendant?

22 A It appears to be a U.S. Capitol Police officer.

23 Q And now a different angle. In 103.6, is the person in the
24 top of the red circle the defendant?

25 A Yes.

1 Q And is the person in the bottom of the red circle, is that
2 the Capitol Police officers you are referring to?

3 A Yes.

4 MR. GORDON: All right. Now 103.c.

5 BY MR. GORDON:

6 Q Before we watch this, can you describe what happens in
7 this assault?

8 A Capitol Police officer appears to walk in front of the
9 defendant, and the defendant pushes him from the back.

10 Q Having watched videos, what is that Capitol Police officer
11 and the others around him, what are they doing? What work are
12 they engaged in at the time the defendant shoves that officer
13 in the back?

14 A They appear to be trying to reestablish a line.

15 (The videotape was played.)

16 BY MR. GORDON:

17 Q At the 4 second mark, there's a circle in yellow. Does
18 that contain the defendant?

19 A Yes.

20 Q And the Capitol Police officer?

21 A Yes.

22 (The videotape was played.)

23 MR. GORDON: Moving on to the 500 series for
24 assault 3, beginning with 511.b.

25 (The videotape was played.)

1 BY MR. GORDON:

2 Q I have paused at the one-second mark. Do you recognize
3 the person that I have circled in blue in the center of the
4 screen with the green camo hoodie and the kind of dark-colored
5 face mask, black and gray pattern?

6 A Yes.

7 Q Who's that?

8 A That's the defendant.

9 Q Okay. Do you see his arms extended?

10 A Yes.

11 MR. GORDON: 511.e.

12 (The videotape was played.)

13 BY MR. GORDON:

14 Q Is that person the defendant outlined in white?

15 A Yes.

16 THE COURT: This is Count -- which count?

17 MR. GORDON: This is Count No. 6.

18 Now to 513.b.

19 (The videotape was played.)

20 BY MR. GORDON:

21 Q I have paused at one second. Do you recognize the person
22 I have circled in the center of the screen with the black and
23 gray face mask, green camo hoodie, just to the left of the
24 white backwards Make America Great Again hat?

25 A Yes.

1 Q Who's that?

2 A That's the defendant.

3 Q Did you see the person walking right in front of him?

4 A Yes.

5 Q Based on that angle, were you better able to tell who that
6 person was or what that person's job was?

7 A Yes. I mean, can you play it again.

8 (The videotape was played.)

9 BY MR. GORDON:

10 Q There we go.

11 A Yeah.

12 Q Can you tell, based on -- I have stopped it at the two
13 second mark, and I have circled a person wearing a helmet and a
14 face shield just to the left of the white backwards Make
15 America Great Again hat.

16 Based on that person's clothing and attire or helmet and
17 gear, can you tell what that person's job is?

18 A U.S. Capitol Police officer, Civil Disturbance Unit.

19 Q You said Civil Disturbance Unit?

20 A Yes, based on the gear he's wearing.

21 MR. GORDON: And finally, 513.e.

22 (The videotape was played.)

23 BY MR. GORDON:

24 Q Is the person outlined in white the defendant?

25 A Yes.

1 MR. GORDON: Moving on to -- this charge is what we
2 are calling assault 4, the one charged in Count 4. This is the
3 assault against Officer Karlsen.

4 Beginning with the 100 series and starting with
5 103.6 -- sorry, that's the wrong one.

6 Yeah, there we go, 103.6. This is the one we looked
7 at before, and I put it out of order.

8 BY MR. GORDON:

9 Q So you have already identified the defendant here in the
10 red circle?

11 A Yes.

12 Q And the person in the bottom is a Capitol Police officer,
13 correct?

14 A Yes.

15 Q Okay. 103.7, does that circle contain the defendant?

16 A Yes.

17 Q And also a Capitol Police officer?

18 A Yes.

19 MR. GORDON: 103.d.

20 (The videotape was played.)

21 BY MR. GORDON:

22 Q Does the yellow circle contain the defendant and the
23 Capitol Police officer?

24 A Yes.

25 (The videotape was played.)

1 MR. GORDON: Going to the 400 series, beginning with
2 403.2.

3 BY MR. GORDON:

4 Q Okay. Is the person circled in red the defendant?

5 A Yes.

6 MR. GORDON: And 403.3.

7 BY MR. GORDON:

8 Q Is the person circled in red the defendant?

9 A Yes.

10 MR. GORDON: 403.a.

11 (The videotape was played.)

12 BY MR. GORDON:

13 Q Did you see the person shove the officer?

14 A Yes.

15 Q Is that the defendant?

16 A Yes, it was.

17 MR. GORDON: 403.c.

18 (The videotape was played.)

19 BY MR. GORDON:

20 Q Is the person outlined in white the defendant?

21 A Yes.

22 (The videotape was played.)

23 MR. GORDON: To the 500 series, 513.c.

24 (The videotape was played.)

25

1 BY MR. GORDON:

2 Q I have paused at the one-second mark, circled the man
3 pointing with the green camo hoodie and black jacket. Is that
4 the defendant?

5 A Yes.

6 MR. GORDON: Finally, 513.f.

7 (The videotape was played.)

8 BY MR. GORDON:

9 Q Is the man circled in yellow the defendant?

10 A Yes.

11 MR. GORDON: All right. That does it for assault 4.

12 Now moving on to the theft of the shields charged in
13 Count 7.

14 BY MR. GORDON:

15 Q All right. Starting off with 103.8, is the person in the
16 smaller circle, is that the defendant?

17 A Yes.

18 Q And do you recognize the object circled with the larger
19 red circle?

20 A Yes.

21 Q What's that?

22 A Shields.

23 Q And how about in 103.9, is the smaller circle around the
24 defendant?

25 A Yes.

1 Q And what's in the larger circle?

2 A Also shields.

3 Q 103.e, is the person circled in yellow the defendant?

4 A Yes.

5 Q What's he doing with the shield?

6 A He is picking up the shields and then handing them back to
7 people in the mob.

8 Q Does he do that twice?

9 A Yes.

10 MR. GORDON: Looking at the 400 series, starting with
11 403.4.

12 BY MR. GORDON:

13 Q Is the man circled in red, is that the defendant?

14 A Yes.

15 Q What's he holding?

16 A Shield.

17 Q And in 403.5, is that the defendant?

18 A Yes.

19 Q What's he holding?

20 A A shield.

21 MR. GORDON: Okay. 403.b.

22 (The videotape was played.)

23 BY MR. GORDON:

24 Q Is the person who picked up the two shields and passed
25 them back, is that the defendant?

1 A Yes.

2 MR. GORDON: 403.d.

3 (The videotape was played.)

4 BY MR. GORDON:

5 Q Is the person circled in yellow the defendant?

6 A Yes.

7 MR. GORDON: 511.c.

8 (The videotape was played.)

9 BY MR. GORDON:

10 Q Paused less than a second in, circled the camouflage
11 hoodie in the bottom left corner of this video. Do you see
12 that?

13 A Yes.

14 Q Is that the defendant?

15 A Yes.

16 (The videotape was played.)

17 BY MR. GORDON:

18 Q What's he wearing on his hands?

19 A Gloves.

20 Q What color?

21 A Black.

22 MR. GORDON: Your Honor, may I have one moment to
23 consult with Mr. Jones?

24 THE COURT: You may.

25

1 MR. GORDON: I have one more video that captures both
2 assaults 2 and 3 together. So this is Government's
3 Exhibit 511. I'm advancing it to 3 minutes and 15 seconds
4 starting with the flagpole throw and then the shove.

5 (The videotape was played.)

6 BY MR. GORDON:

7 Q At the 3 minutes and 38 second mark, did you see the
8 shove?

9 A Yes.

10 Q Okay. Now, after reviewing all of this video, as part of
11 this case, have you also gathered various business records
12 including some from Safeway, which is owned by Albertsons?

13 A Yes.

14 Q Have you reviewed those business records?

15 A Yes.

16 Q And do you understand how to read them?

17 A Yes.

18 MR. GORDON: Your Honor, these records are
19 Government's Exhibits 102 -- I'm sorry, 1002 through 1004.

20 BY MR. GORDON:

21 Q Did you also retrieve an order from the D.C. mayor?

22 A Yes.

23 Q And did that regard a curfew imposed on January 6?

24 A Yes.

25 MR. GORDON: Your Honor, that is Government's

1 Exhibit 1001. I am happy to have you take judicial notice at
2 any moment of any aspect of these, but I will go through them
3 very, very briefly.

4 THE COURT: Okay.

5 BY MR. GORDON:

6 Q So first pulling up Government's Exhibit 1001, is this the
7 D.C. mayor's curfew order?

8 A Yes.

9 Q What did the D.C. mayor order specifically?

10 A That there was a curfew starting at 6:00 p.m. on January 6
11 and then going overnight into the next morning.

12 Q Okay. Do we see that established on page 3 of the curfew
13 order under section 2, paragraph 1?

14 A Yes.

15 Q Does the proceeding section of the curfew order explain
16 why the curfew order is put into place?

17 A Yes.

18 Q And what is the rationale in summary?

19 A To protect people and things within the District of
20 Columbia.

21 Q And why was that -- why does the order explain that to
22 have been necessary?

23 A Because of the riots at the Capitol building.

24 Q What does the curfew require of D.C. citizens?

25 A That they have to stay in, and businesses have to close.

1 MR. GORDON: Okay. All right. Moving on to
2 Government's Exhibit 1002.

3 BY MR. GORDON:

4 Q What is 1002?

5 A It's an email.

6 Q And who is the email from in general?

7 A In general, it's from Albertsons, the, I guess, parent
8 company of Safeway. It's from somebody there.

9 Q What is Safeway?

10 A Safeway is a grocery store.

11 Q And who is the email sent to?

12 A Various store managers.

13 Q Are the stores referenced stores in the D.C. area?

14 A Yes.

15 Q When you see in the To field store and then a number, does
16 that reference the Safeway internal designation for the store?
17 Each store has an ID number?

18 A Yes.

19 Q Okay. Can you read the second paragraph of the email
20 itself.

21 A All D.C. stores will close at 4:00 p.m. with plans to
22 reopen at 6:00 a.m. to 7:00 a.m. Night crews will not be in
23 place.

24 Q What does the night crew do at a grocery store?

25 A I imagine they stock the shelves and perhaps unload

1 trucks, do things that you can't do when customers are there.

2 Q All right. Looking at Government's Exhibit 1003, what is
3 Government's Exhibit 1003?

4 A It is a list of the stores that were referenced in the
5 email. It has the store number and then a word or words
6 describing its location, and then it shows sales figures for
7 those stores.

8 Q Now, are each of the 13 stores listed here located within
9 the District of Columbia?

10 A Yes.

11 Q Explaining the sales figures listed here, what is
12 projected ID percentage? What does that refer to?

13 A What they project their sales would be on that day.

14 Q How do they determine their projected sales?

15 A By how the store did on that same day a year ago.

16 Q What does the previous column, actual ID percentage, refer
17 to?

18 A It's the actual sales.

19 Q So is it correct to understand that for the Piney Branch
20 store in line 1, they projected to do about 15 percent better
21 than the year before on that date, and in actuality, the first
22 day of January 5, 2021, in actuality, they performed
23 17.75 percent better?

24 A Yes.

25 Q And so what does the final column tell us?

1 A The difference between the two.

2 Q All right. So is it fair to say that the Piney Branch
3 store on January 5 did 2.8 percent better than expected?

4 A Yes.

5 Q What is the difference between the numbers in black versus
6 the numbers in red?

7 A The numbers in black are positive sales, like more than
8 zero, and the ones in red are negative or less than zero.

9 Q Okay. Fair to say then that, on January 5, it's about
10 half and half; about half the stores did better than expected,
11 about half did worse than expected?

12 A Yes.

13 Q Fair to say that the worst performing store was the
14 Connecticut Avenue store at 16.33 percent underperforming, and
15 the best performing store was Alabama Avenue at 24.20 over?

16 A Yes.

17 Q Moving on to page 2 of the record, from January 6, 2021,
18 what should we understand from looking -- how do you sum up the
19 data that we see in the January 6 record?

20 A Every store did worse. They were in the red. They were
21 negative numbers.

22 Q And fair to say by fairly significant margins?

23 A Right.

24 Q Even the best performing store, the Alabama Avenue store,
25 was still 21.26 percent under?

1 A Yes.

2 Q Moving on to the third page, the January 7 record, what
3 do -- what should we take away there?

4 A So on this day, they are all in the black, so they all did
5 better on that day.

6 Q If you compare the percentages from January 7 seen on
7 page 3 to January 6 seen on page 2 store by store, did the
8 stores make up all the lost sales from January 6 on January 7?

9 A They didn't make it up, no.

10 Q So, for example, the Piney Branch store, 19.46 better than
11 expected on January 7, but 28.26 below on January 6?

12 A Right.

13 MR. GORDON: Finally, Government's Exhibit 1004.

14 BY MR. GORDON:

15 Q What is Government's Exhibit 1004? What is this document?

16 A It's a spreadsheet or document showing warehouse shipments
17 from Lancaster, Pennsylvania to Washington, D.C. stores.

18 Q Are the stores being referenced here Safeway stores?

19 A Yes.

20 Q Do the store numbers in column 2 correspond to the same
21 store numbers that we saw in the closure email?

22 A Yes.

23 Q Do they correspond to the same store numbers we just saw
24 on the sales report?

25 A Yes.

1 Q Do you understand that the Safeway stores receive their
2 goods from Pennsylvania?

3 A Yes.

4 Q Does the record show, for example, that stores were
5 expecting to receive shipments on January 6, 2021 on other
6 days?

7 A Yes.

8 Q Okay. Now, in addition to all the things you have
9 described, did you or other agents have an opportunity to
10 interview the defendant at any point?

11 A No.

12 Q Have you nevertheless heard statements that the defendant
13 has made about this case or about his actions on January 6?

14 A Yes.

15 Q What were the sources of those statements that you heard
16 the defendant make?

17 A I listened to recorded calls made from jail, and I also
18 listened to interviews that were available on the internet that
19 were given by the defendant.

20 Q Okay. Now, without anything specific that he said, in
21 general, what was your takeaway from listening to the
22 defendant's jail calls and those interviews he provided to
23 public interviewers?

24 MR. MOYERS: Objection, relevance.

25 THE COURT: How is it relevant?

1 MR. GORDON: Your Honor, the defendant's statements
2 about -- well, I think you are about -- I expect you are about
3 to hear the agent say that he has essentially acknowledged the
4 conduct but expressed no remorse.

5 THE COURT: All right. Remorse is not relevant, I
6 agree. I mean, I'm not sure -- I think he's acknowledged the
7 conduct. She can say general acknowledgment of the conduct
8 would be an admission, but I agree the remorse isn't relevant.

9 BY MR. GORDON:

10 Q Have you heard him acknowledge that he was on the Capitol
11 grounds on January 6?

12 A Yes.

13 Q Have you heard him acknowledge that the officers were
14 attempting to dispel the crowd with tear gas along with other
15 munitions?

16 A Yes.

17 Q Have you heard him express pride for his actions on
18 January 6?

19 A Yes.

20 MR. GORDON: Your Honor, one moment to consult with
21 Mr. Jones.

22 I have nothing further.

23 THE COURT: Thanks so much.

24 Cross.

25

CROSS EXAMINATION

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BY MR. MOYERS:

Q Good morning, Agent Alvarez.

A Good morning.

Q Did you know that sic semper tyrannis is the state motto of Virginia?

A No.

Q Did you know it's on their flag?

A No.

Q I want to go first into your, I guess, training or experience. You said you mostly have worked in gangs and violent crimes for the FBI, is that right?

A Yes.

Q And did you work on, I guess, gathering forensic evidence as well?

A Yes.

Q And working in counterterrorism?

A I did.

Q And I don't know if you said on direct, but how long have you been with the FBI?

A 20 years.

Q And in your investigation of gangs and violent crimes, I assume you came across weapons?

A Yes.

Q Dangerous weapons?

1 A Yes.

2 Q And firearms?

3 A Yes.

4 Q Knives?

5 A Yes.

6 Q Any flagpoles?

7 A No.

8 Q Now, you also described a little bit about your experience
9 in investigation. In general, is it better to have an
10 interview with somebody or get a written statement from
11 somebody?

12 A I mean, they both can be useful investigative tools if the
13 person you want to interview or get a written statement from is
14 willing to do those things.

15 Q And if you were investigating a case and a witness just
16 wanted to give you a written statement, would you prefer that
17 over a written statement and an interview?

18 A I mean, I'll take all I can get. So if somebody is
19 willing to be interviewed and give a written statement, that's
20 great. But, I mean, it just depends on the case. And yeah,
21 I'll just --

22 Q What are the advantages of an interview as opposed to a
23 written statement?

24 A Well, a written statement is the person just writing what
25 they want to put down. And if you interview somebody, then you

1 can ask questions.

2 Q And so you can interact with what they are saying, is that
3 a fair way to put it?

4 A Yes.

5 Q And you can see their body language?

6 A Yes, you can.

7 Q And you can hear tone, is that right?

8 A Yes.

9 Q And you can ask -- I guess another way is if something
10 isn't clear to you, you can ask immediately, is that right?

11 A Yes.

12 Q And so there's some interactive benefits that maybe you
13 don't get with a written statement alone?

14 A True.

15 Q Now, you discussed getting Facebook search warrants as
16 part of this case. Was that your first time, like, writing out
17 or swearing out a Facebook search warrant?

18 A No.

19 Q How many do you think you have done?

20 A I don't know. Facebook wasn't really a thing up until
21 about 2010. Maybe, I don't know, 10, 15 Facebook search
22 warrants. I don't want to give a wrong number.

23 Q Sure. But you had done it before?

24 A I have done it, yes.

25 Q And you detailed this a little bit, but I want to make it

1 super clear. What are all the uses that you can get out of a
2 search warrant for somebody's Facebook?

3 A Well, you can get photographs that may be of evidentiary
4 value, posts, comments. Private messages can be had through a
5 Facebook search warrant.

6 So it just depends on the case. But in general, like,
7 they're statements of that person you are investigating.

8 Q And are people's posts -- do you ever have trouble
9 deciding whether -- reading a post, like, figuring out the
10 meaning of it?

11 A I mean, I use my training and experience, and I decide
12 what I think somebody's statement means.

13 Q And would you say that sometimes people make jokes on
14 Facebook?

15 A Sure.

16 Q Would you say that sometimes people are deadly serious on
17 Facebook?

18 A Yes.

19 Q And would you say you could have a post anywhere in
20 between a joke and something we will call genuine or a hundred
21 percent sincere?

22 A Sure.

23 Q So you got on this -- I guess you got onto -- I don't want
24 to misname it. Was it a temporary duty assignment, or you
25 got -- I guess, how did you get involved in March of 2021?

1 A That's when I am estimating that the email went out, you
2 know, asking people to come to Washington and help with these
3 cases. And I responded that I would like to. And they said
4 okay. And so I came to D.C. for 60 days.

5 Q And had there -- you are familiar with the case file for
6 Mr. Mock's investigation, aren't you?

7 A Yes.

8 Q And you would review that from time to time as part of
9 your investigation?

10 A Yes.

11 Q And you would add to that case file as part of your
12 investigation, is that right?

13 A Yes.

14 Q And when do you think -- I guess, when do you think you
15 got the first anonymous tip about Mr. Mock?

16 A So in January there were five or six tips received about
17 Mr. Mock. I think two were anonymous, and I think the other
18 ones had names. And then those came in January.

19 Q And if I told you it was around January 11, does that
20 sound right?

21 A I think there may have been one on January 8. Oh, you
22 mean the anonymous one?

23 Q Yes.

24 A Okay. Yeah.

25 Q How did you determine that the ones that were anonymous

1 were different people, were different, you know, I guess
2 different tipsters?

3 A We didn't. So, I mean, I suppose it could have been the
4 same person.

5 Q So it's truly anonymous. You didn't follow up, is that
6 right?

7 A Oh, we tried to, but we just never identified the
8 anonymous people.

9 Q Now, if you don't know, that's fine, but the website that
10 the FBI set up, would you -- how did you know that that was --
11 that went up the same day?

12 A From talking with the squad, the home squad at Washington
13 field office, that puts photographs onto the website.

14 Q And are you -- were you aware of, I guess I'll call them
15 third party or private websites that were also working on --

16 MR. GORDON: Objection, relevance.

17 MR. MOYERS: It will become clear.

18 THE COURT: All right. I will give you a minute.

19 Overruled for the moment.

20 BY MR. MOYERS:

21 Q Did you repost something on Twitter from
22 seditionhunters.com?

23 A I mean, Seditio Hunters was a Twitter account that
24 published photographs, the same photographs that the FBI was
25 publishing, but they, I guess, retweeted them.

1 Q And did you retweet one?

2 A Maybe.

3 Q Do you remember if you did?

4 A I don't remember.

5 Q Would it help if I showed you what seems to be a Twitter
6 account related to you?

7 A Sure.

8 Q And let me ask, did -- in the government's exhibits in
9 this case, is that all the social media you reviewed in
10 investigating Mr. Mock?

11 A I think so. We looked for other social media, but he
12 didn't seem to use other social media besides Facebook.

13 Q And more generally, I know you spoke with Officer Collins
14 as part of this case. Is that right?

15 A Yes.

16 Q And Officer Karlsen, is that right?

17 A Yes.

18 Q And did you speak with other officers on the lower west
19 terrace?

20 A No. I think those were the only two.

21 Q And -- oh, I probably should have meant for this case.

22 A Right.

23 Q No, I'm asking -- I guess I should be more clear.

24 Did you speak with other officers on the lower west
25 terrace generally as part of your work on the task force?

1 A I don't remember speaking to other officers. I might
2 have, but I don't remember if I did.

3 Q And we got some of this on direct, but you gathered a lot
4 of documents as part of this investigation of Mr. Mock?

5 A Yes.

6 Q And some of those documents would pertain specifically to
7 Mr. Mock, is that right?

8 A Yes.

9 Q And then some might be more general, is that right?

10 A Right.

11 Q Like, for instance, the Safeway records, is that right?

12 A Right.

13 Q The curfew plan or the curfew announcement, is that right?

14 A Right.

15 Q And what about any operational plans for the CDU?

16 A I didn't get those.

17 Q And, I guess, let me ask more specifically. No CDU plans
18 from the U.S. Capitol Police?

19 A No.

20 Q And what about the Metropolitan Police?

21 A No.

22 Q Is it fair to say that in the government's exhibits are
23 not all the videos that you reviewed that depict Mr. Mock? Is
24 that fair?

25 A Right.

1 Q Well, let's look at some of the ones that you did. I am
2 going to show you what's been marked as -- do you recognize
3 this as Government's Exhibit 802?

4 A Yes.

5 Q And the status field that says, An afternoon with my
6 fellow deplorables.

7 A Yes.

8 Q Did you think that the writer of that was referring to
9 himself as a deplorable person?

10 A Yes.

11 Q So that he, the writer of this, was sincerely describing
12 himself as somebody who is worthy of being deplored?

13 A No.

14 Q Oh, then what do you think it meant?

15 THE COURT: She went over this and explained that it
16 related to the 2016 campaign, that it was a tongue-in-cheek
17 comment.

18 MR. MOYERS: Got you. I'll move on.

19 THE COURT: Thanks.

20 BY MR. MOYERS:

21 Q Let's go to -- well, let's go back to that. This was a
22 picture from -- this wasn't from January -- I'm going to show
23 you again.

24 This isn't from January 6, though, right?

25 A This, no.

1 Q This is from a December 12 rally?

2 A Yes.

3 Q And does this -- did you see any violence depicted in this
4 one?

5 A No.

6 Q Let's go to 803. Do you recognize that as Government's
7 803?

8 A Yes.

9 Q And do you see where it says -- I guess on direct you
10 pointed out where it says, Fat, lazy armchair patriots. Did
11 this feel -- I guess, was your impression that this was more
12 serious or more tongue in cheek?

13 A I think lazy armchair patriots could be construed as
14 tongue in cheek.

15 Q And, I mean, I assume you are a patriot, right?

16 A I love my country.

17 Q And you do actually defend it for a living, isn't that
18 right?

19 A Yes.

20 Q You keep us safe?

21 A Yes, I do my job.

22 Q Let's go to -- I'm showing you Government's 804. Oop, no,
23 I'm not.

24 This is Government's 804. Do you see there at the bottom
25 where it says the summary field?

1 A Yes.

2 Q And it looks like there's a quote there.

3 A Which one because it looks like there's two that have
4 quotation marks around them? I just don't know which one you
5 mean.

6 Q (Indicating.)

7 A Oh, that one. Got it.

8 Q Okay. You got it. Did you look up where that was from?

9 A Yes.

10 Q What's it from?

11 A The Declaration of Independence.

12 Q And did a patriot write that?

13 A I mean, like, I don't know if he was a patriot or not. I
14 mean, he wrote the Declaration of Independence. I guess that
15 is patriotic.

16 Q Now I am going to go to 805. Do you see Government's 805
17 there?

18 A Yes.

19 Q Now, you talked on direct about the 3 percent, right? Is
20 that a specific group of people?

21 A I think so, yeah.

22 Q How?

23 A I don't know. They are united by their common belief that
24 3 percent of people around the time of the American Revolution
25 were the ones who actually overthrew the king of England.

1 Q But they aren't like -- I mean, they aren't like a
2 domestic terrorist organization, are they?

3 A I don't know, to define it, what a domestic terrorism
4 group is. I know there's criteria, but I am not aware of what
5 they are. I don't study that. I had just read about what
6 3 percent means, but I don't have enough information to know if
7 they are or are not.

8 Q Okay. Do you recognize that as Government's 807?

9 A Yes.

10 Q And it looks to be a Facebook post that says from
11 Bongino.com. It says, Senator Hawley pledges to object to
12 election certification on January 6. Is that right?

13 A Yes.

14 Q And is he -- is the news report there referring to what
15 the government entered as, I guess, the exhibits regarding the
16 certification of the election and the Twelfth Amendment as well
17 as those parts of the U.S. Code?

18 A Yes, the certification of the presidential election.

19 Q And we see here somebody says -- posts, Senator Hawley is
20 doing the right thing. I just don't know if there will be
21 enough in the sen. And then it's cut off.

22 What did you understand, I believe, I guess we will say,
23 Mr. Mock's liking of this post to mean?

24 A That he supported what Senator Hawley was doing.

25 THE COURT: All right. Why don't we take this break

1 as our lunchtime, and we will come back at 1:40, 1:40 today.
2 And then you can just let the government know about how much
3 longer you expect to be, so you will know about those other
4 witnesses that you wanted to recall.

5 MR. MOYERS: Yes, Your Honor.

6 THE COURT: Okay. Thanks, everyone.

7 (A recess was taken at 12:20 p.m.)

8 THE COURT: Good afternoon. Anything preliminary
9 before we resume, Mr. Gordon?

10 MR. MOYERS: We are missing our defendant.

11 THE COURT: We are waiting for Mr. Mock. Here he is.

12 MR. GORDON: No, Your Honor.

13 THE COURT: Anything preliminary, Mr. Moyers?

14 MR. MOYERS: No, Your Honor.

15 THE COURT: All right. You may resume.

16 BY MR. MOYERS:

17 Q I guess we will pick up with Government's Exhibit 804.
18 That's where Mr. Mock refers to the removal of socialists, or
19 could have Mr. Mock been talking about socialist governments or
20 governments abroad?

21 A Sure, it's possible.

22 Q And I believe you said on direct that your interpretation
23 of it was that -- or at least referring to real patriots as if
24 he were comparing himself to a Revolutionary War patriot.

25 A I don't think I meant that Mr. Mock specifically was doing

1 that. I just thought that sometimes when people say that, they
2 are referencing back to the patriots of the Revolutionary War
3 time who did overthrow the government.

4 Q And I guess we will go to, I believe this was in
5 Government 806, where Mr. Mock says something about hoping that
6 police disregard unlawful orders. Could that have referred to
7 his protesting in Minnesota?

8 A I wasn't aware of protesting in Minnesota, but I know what
9 I read. I don't know all the thoughts behind it.

10 Q Well, you knew Mr. Mock lived in Minnesota in 2020, right?

11 A Yes.

12 Q And you knew that the summer of 2020 in Minneapolis was, I
13 guess, rife with protests around the death of George Floyd?

14 A Yes.

15 Q And do you know if Mr. Mock participated in any protests
16 in Minnesota during 2020?

17 A I am not aware of it if he did.

18 Q And, I guess, in 808, you pointed out or highlighted the,
19 Well, Nancy, that ain't the worst thing that's going to happen
20 to you this week.

21 Do you know for sure he was referring to Nancy Pelosi or
22 no?

23 A No.

24 Q And, I guess, let's go to 809. Do you recognize this
25 as 809?

1 A Yes.

2 Q And it looks like it is Brian Mock, it's his account
3 sharing something?

4 A That's what it looked like to me.

5 Q And can you read what it says in the title field.

6 A First Amendment activity.

7 Q No, I'm sorry, at the bottom where it says title.

8 A Oh, sorry. Dan Crenshaw for POTUS 2024.

9 Q Do you know who Dan Crenshaw is?

10 A Yes, I do.

11 Q Navy SEAL?

12 A I know him as a congressman from Texas. He had served in
13 the military. I just wasn't sure in what capacity.

14 Q And he has an eye patch?

15 A Yes.

16 Q And so it was Dan -- this was posted originally by Dan
17 Crenshaw for POTUS 2024?

18 A Yes.

19 Q And I believe you said on direct the purple, I guess, the
20 purple parts here on the map are restricted vehicular traffic.
21 Do you know if those were actually the rules on January 6?

22 A No.

23 Q What did you find out about the restricted areas in your
24 investigation from January 6?

25 A I was only concerned with the restricted area around the

1 United States Capitol and not the larger area of the city.

2 Q So did you look at -- I guess to go back to at least the
3 Safeway point, did you look at how many roads were closed on
4 January 6 as opposed to January 5 or January 7?

5 A No, I didn't look at the road closures.

6 Q Do you know if there were any road closures on January 6?

7 A I think so because I saw photographs of people walking in
8 the street.

9 Q Now, you also testified on direct that part of how you
10 were able to track Mr. Mock and Ms. Visnovec throughout the
11 crowd was starting with the picture, I guess the picture of the
12 two of them in front of the Minnesota part of the World War II
13 Monument, is that right?

14 A Yes.

15 Q And did they change clothes at all from, I guess, when you
16 have that first one as earlier in the day to, let's say, the
17 last thing we saw on your direct, which is 5:30-ish?

18 A I don't think they changed clothes.

19 Q And I believe Government's 815, was that a video from a
20 tipster?

21 A I don't remember exactly what 815 refers to, but there was
22 a video sent by a tipster.

23 Q Okay. And do you remember it as the -- well, do you
24 remember it as the one that starts with just a screenshot of
25 somebody's phone?

1 A Yes.

2 Q Okay. And he says -- in the video he says the cops just
3 started hitting him, is that right?

4 A Yes.

5 Q Do you have any reason to disbelieve the cops just started
6 hitting him?

7 A I don't have video of it.

8 Q Now, I would like to show you what was marked as
9 Government's Exhibit 816. Do you remember what that includes?

10 A Not just by the number, sorry.

11 Q Would it help if I showed you?

12 A Sure. That would be great.

13 Yes.

14 Q Okay. And I will leave it with you. Can you read aloud
15 the highlighted portion there on the second page?

16 A Yes.

17 Q What's it say?

18 A It says, I didn't go into D.C. to start violence. We
19 weren't armed. I have seen everything they have said about
20 what happened there via the news. We were there. We saw
21 exactly what happened. I know what is right. It might be
22 idealized --

23 MR. GORDON: Your Honor, objection. This is the
24 exhibit that we pulled. It is not in evidence, so eliciting it
25 from the defense is inadmissible hearsay.

1 MR. MOYERS: I mean, I guess I could call her back on
2 direct.

3 MR. GORDON: It would still be inadmissible hearsay.

4 THE COURT: I think they are still saying it's hearsay
5 because it's a statement of the defendant.

6 MR. MOYERS: I can ask around it.

7 THE COURT: Or arguably maybe, is there an argument
8 for completeness? I don't know the time and date of each of
9 the texts, but arguably there is a completeness argument.

10 MR. GORDON: I would oppose that, Your Honor, and I
11 can articulate why.

12 THE COURT: All right. Then I will let you try to ask
13 around it, Mr. Moyers.

14 MR. MOYERS: All right.

15 BY MR. MOYERS:

16 Q I think I am going to ask it a different way. Do you have
17 any information that Mr. Mock showed up to the December 12
18 rally armed?

19 A Not one way or the other. I just don't know.

20 Q All right. And January 6, 2021?

21 A Other than what was seen in his hands, those weapons, I
22 don't know because I am not sure what was on his person or in
23 his backpack. But I didn't see him with any other weapons
24 aside from the ones that -- the little bit of the flagpole that
25 he threw and the baton-like object in his hand. Other than

1 that, no.

2 Q And as part of your investigation, did you look at
3 flagpoles or other flags that had been at the scene that day?

4 A I didn't look at flagpoles other than those, I guess, that
5 were used as weapons. But if somebody was just holding a
6 flagpole with a flag on it, then no.

7 Q And how would you know how heavy a flagpole was if you
8 just saw it on video?

9 A I wouldn't know.

10 Q Okay. And, now, do you have any information from your
11 investigation that -- let's ask it this way.

12 We heard on direct that he said a lot of times -- or that
13 Mr. Mock said a lot of times that he was willing to lay down
14 his life. What do you take that to mean as laying down your
15 life?

16 A It could mean different things, I guess, for different
17 people, but being willing to sacrifice your life for a cause
18 that you believe in.

19 Q Okay. And again, do you know if Mr. Mock -- well, you
20 know Mr. Mock, we have heard this, was at the December 12, 2020
21 protest.

22 Do you know if Mr. Mock was attacked or hurt at that
23 rally?

24 A I don't know.

25 Q And what, if anything, do you know about any violence at

1 the December 12, 2020 rally?

2 A I wasn't aware of any.

3 Q So you didn't know that there were clashes between
4 counterprotesters and some of the Trump ralliers on
5 December 12?

6 MR. GORDON: Objection, assumes facts not in evidence.

7 THE COURT: You can ask did you know this to be true.

8 BY MR. MOYERS:

9 Q Do you know it to be true?

10 A I don't know.

11 Q So I guess the sum total, though, of what your
12 investigation developed about December 12 is that Brian Mock
13 went?

14 A Yes.

15 Q And that he didn't act violently?

16 A I didn't have any evidence that he acted violently.

17 Q Or that he was the subject of violence?

18 A No.

19 Q Okay. Now, do you remember the exhibit, it's 903, but
20 it's the messages exchanged with Mr. Finnigan. They are joking
21 around in there, aren't they?

22 A Yes, I believe there was some joking.

23 Q Joked about bail money?

24 A Right.

25 Q But they do talk about the risk of being attacked by

1 Antifa?

2 A Yes.

3 Q Now go to 904, and I will tell you what it is. In 904, do
4 you remember the quote that went to the effect of let him run
5 out of other people's money?

6 A Yes.

7 Q What did you take that to mean?

8 A Tax dollars being used to support something, and then they
9 would run out -- whoever it was would run out of other people's
10 money. Like, I took it to mean tax dollars.

11 Q Yeah. And so they are talking about, it says, Hey, if we
12 just stopped working, that would be a way to achieve their
13 aims. Is that something they discussed in that exchange?

14 A I remember there being something about stopping working, I
15 do.

16 Q And isn't that the most specific plan you've heard in all
17 the evidence, or I guess let me ask it differently.

18 In all the evidence that you have seen as the case agent,
19 isn't that the most specific plan that he put forward in about
20 how to achieve his political aims?

21 A I took that as more joking around, along the same lines as
22 the other things. I took that as joking. I didn't think it
23 was a plan, a legitimate plan, of theirs to actually stop
24 working.

25 Q Understood. But I guess the question is, so you didn't

1 think that was -- I guess I'm asking if it was the most
2 specific plan, and you are saying it wasn't even a plan, is
3 that right?

4 A I mean, I didn't interpret it that way.

5 Q Now, I think you told us on direct. Who was the first, I
6 guess, alleged victim that you were able to identify?

7 A We believe that to be Officer Collins.

8 Q And when do you think you did that?

9 A When?

10 Q Yeah.

11 A What time? Oh, at 2:29 p.m.

12 Q I'm sorry. When was the first time, I guess, in the
13 course of your investigation that you were able to identify a
14 particular officer as being the alleged victim of an assault
15 committed by my client?

16 A Oh, that was fairly recent. It was -- I believe we were
17 in 2023 when we identified him.

18 Q And did you identify somebody before 2023 as a particular
19 victim or alleged victim of one of my client's assaults?

20 A We identified Officer Karlsen.

21 Q And when did you identify Officer Karlsen?

22 A That was in or about May of 2021.

23 Q So, you know, in those 22 months, why do you think it took
24 so long to identify Officer Collins?

25 A They were all wearing pretty much the same thing. All of

1 the different Capitol Police officers were wearing the same
2 thing for the most part. And we asked the Capitol Police, some
3 of the liaison officers, to please, you know, try to, like,
4 show the photograph of, you know, the assault and try to
5 identify the officer who was in that photograph. And they
6 weren't able to until recently.

7 Q And why do you think that was?

8 A I mean, I don't know exactly because I wasn't part of that
9 effort. I asked the officer, but I didn't know what steps he
10 undertook to identify the victim officer. But, I mean, to be
11 honest, I really just don't know.

12 Q And did you -- well, let me ask, did you ask Officer
13 Collins?

14 A Why it took us so long to identify him?

15 Q Yeah. Why -- I guess I am trying to understand, how did
16 Officer Collins come to your attention?

17 A One of the Capitol Police officers who is on the task
18 force provided me with his contact information as a possible
19 person who was in the photograph and video.

20 And I contacted Officer Karlsen -- I mean Collins, sorry,
21 and interviewed him about that. And while he couldn't be a
22 hundred percent sure that it was him because he couldn't see
23 his own face, there were a number of things that made him
24 believe it was him.

25 Q Okay. And so this -- when you contacted him, was it over

1 the phone, Zoom, in person, Teams?

2 A Phone. And we did have a Teams meeting with him that was
3 on video.

4 Q And did you show -- I guess you are kind of referring to
5 videos or still shots. Is that what you showed him?

6 A Showed him the video and still images obtained from the
7 video.

8 Q And had he seen those before he spoke with you?

9 A I don't believe so.

10 Q Okay. So what did you ask him specifically, if you
11 remember?

12 A Just do you see anything in this video that makes you
13 believe it could be you. Did the things that happened in this
14 video, do you remember these things happening on January 6,
15 that type of thing.

16 Q So it was just -- I guess what I am a little unclear on is
17 the liaison officer said this was one of the guys who was there
18 around that time. I mean, why would the liaison officer bring
19 that one and somebody else?

20 A He just provided me with Officer Collins's name and cell
21 phone number. That was it. I had been asking him for some
22 time, like, can we try to identify this victim officer. And
23 then I forget on what date it was, but he provided me with that
24 information. And then I took it from there. I didn't ask the
25 liaison officer any further about the process that was used to

1 identify Officer Collins.

2 Q Because you figured you would just get it from Officer
3 Collins, is that right?

4 A Right. I mean, he either could rule himself in or out,
5 you know, or say I think that's me or no, that's definitely not
6 me and here's why, so...

7 Q And when do you think you spoke with him for the first
8 time?

9 A With Officer Collins?

10 Q Yes.

11 A I don't remember the exact date. I know it was this year.
12 I believe it was this year. Maybe April possibly, March or
13 April.

14 Q March or April. Okay.

15 A I think.

16 Q And would you have sent, I guess, Link messages about this
17 at all or no?

18 A If I sent him anything, it was -- no, we did it on the
19 phone. Like, if I sent him a photograph, it wasn't in any way
20 conducting the interview over email. It was just emailing him
21 perhaps a photograph. But I don't remember doing that. I seem
22 to think we did it via phone.

23 Q How many times do you think you spoke with him -- or, I
24 guess, back up.

25 How many times do you think you met with him either via

1 Zoom, Teams, or in person with videos or photos?

2 A Let's see. With Officer Collins, I talked to him two or
3 three times on the phone, had one Teams meeting with him, and
4 met with him in person once.

5 Q And he didn't say at any of those times, Hey, that's
6 definitely me?

7 A No.

8 Q So did you write any 302s for each meeting?

9 A I wrote -- I believe I wrote a 302 after my first
10 interview with him, I think, but not for each time.

11 Q And would you have sent any Link messages about meeting
12 with him?

13 A Link?

14 Q Link messages.

15 A Link, what? I'm sorry.

16 Q Oh, with the FBI.

17 A You mean like our little instant messaging thing that we
18 use?

19 Q Yes.

20 A I don't think so.

21 Q Okay.

22 A Because he's not --

23 Q I'm asking you if you sent IMs, essentially, to other FBI
24 agents or people within that Link ecosystem about this?

25 A It's possible.

1 Q Now I'll switch gears here for a little. Would it have
2 been -- I guess through the investigation of Mr. Mock, do you
3 think you sent messages, instant messages, over Link about the
4 Mock case?

5 A Possibly.

6 Q And why do you think that?

7 A I don't use Link all that much, but if I was trying to
8 coordinate a phone call or something, I would send it. I don't
9 generally send substantive information about any investigation
10 over Link. It's usually just quickly trying to coordinate
11 something.

12 Q And so I understand, you have been -- would you say you
13 have been on the Mock case since April of 2021?

14 A Yes.

15 Q And is there anybody that knows the Mock investigation at
16 the FBI better than you do?

17 A Better than me? Probably not because I focused on it so
18 much.

19 Q And so from April until now, I guess, could you even
20 estimate the number of hours you've worked on the case?

21 A It's hard for me to come up with numbers for things. I
22 mean, it just depended on what was going on. There were some
23 days when that was all I did, and then there were weeks and
24 months when I was focused on other cases and didn't think about
25 it.

1 Q How many -- I guess how many agents -- we'll start with
2 that. How many agents do you think contributed to Mr. Mock's
3 case?

4 MR. GORDON: Your Honor, objection to this line of
5 questioning.

6 THE COURT: Relevance?

7 MR. MOYERS: I want to get into a sense of how much
8 effort and how hard they had to look to show -- I guess, to
9 find -- to even put this together.

10 THE COURT: How is that relevant?

11 MS. LAMBERT: Pardon?

12 THE COURT: How is that relevant?

13 MR. MOYERS: The suggestion would be that they had to
14 put in all these hours all this time and that they didn't --
15 this was the best they could get.

16 THE COURT: Okay. Well, it is the best they could
17 get. Whether they put in a small number of hours or a great
18 number of hours, this is their best evidence. I am not going
19 to think there's anything better out there. So I don't know
20 how else it would be relevant.

21 MR. MOYERS: All right.

22 BY MR. MOYERS:

23 Q In the videos that you have reviewed as part of this case,
24 most of the time the crowd is not violent, isn't that right?

25 A I have watched a lot of video, and I saw some very violent

1 actions. And sometimes it's hard to tell what the people in
2 the crowd are doing because there are so many of them, but I
3 think that it was a violent crowd.

4 Q And you saw police respond with violence, isn't that
5 right?

6 A Yes.

7 Q And you heard Mr. Mock complain about it, didn't you?

8 A I mean, when he was complaining about it, it didn't really
9 seem like the police were doing anything. They were just
10 standing there. So at that moment, they were not -- I didn't
11 see them doing anything. If they were, I didn't see it.

12 Q And do you know if Mr. Mock was there when the, I guess --
13 do you know if Mr. Mock was at the peace park before the
14 protesters had pushed away the gates -- or I shouldn't call
15 them gates, the bike racks or the snow fencing, anything like
16 that?

17 A I don't know where he was at that time. I did see some
18 video of him walking, I guess, in the middle of the street, I
19 think towards the Capitol. But I didn't see the moments at the
20 Peace Circle.

21 Q And did you see any videos that Mr. Mock is in where there
22 are signs saying this is a restricted area?

23 A I don't think I saw any pictures of Mr. Mock with signs in
24 that -- no, I don't think so.

25 Q And you referred on direct to, I guess, the restricted

1 area in front of the lower west terrace. Is it your
2 understanding that where the police line was initially would be
3 the -- that's where the restricted area started, or was the
4 restricted area farther out than where the police line was?

5 A I think -- I'm not super familiar with the different areas
6 that were fenced off, I mean, other than what I saw in the
7 trial exhibits. So I don't know exactly where the restricted
8 area started.

9 And I think that as the day went on, maybe there were
10 announcements made about -- I definitely know there were
11 announcements made about it being a restricted area. But I
12 don't know if it started out that way or if it just became that
13 way due to the violence.

14 Q Do you know if there were any permits to march, rally,
15 protest, First Amendment expression for that day?

16 A I don't know about permits. It's possible. It's a First
17 Amendment protected activity to protest.

18 Q So you don't know if, say, the National Park Service
19 provided any permits?

20 A I don't, no.

21 Q Or the D.C. government?

22 A It's definitely possible. I'm just not aware of it.

23 Q Are you aware that -- well, are you aware that the
24 president at that time encouraged the crowd to go down to the
25 Capitol?

1 MR. GORDON: Objection, form of the question, assumes
2 facts not in evidence.

3 THE COURT: If she knows.

4 BY MR. MOYERS:

5 Q I'll ask it again. Are you aware of anything that the
6 president might have said during his speech before the march
7 down to the Capitol?

8 MR. GORDON: Your Honor, this goes into one of our
9 motions in limine about the --

10 THE COURT: I agree. She can answer the question, but
11 right, it's not a permissible defense in the case.

12 You may answer if you are aware.

13 THE WITNESS: Thank you. Yes, I saw that on the news,
14 that the president said that.

15 BY MR. MOYERS:

16 Q Did you see any excessive force in those videos used on
17 Mr. Mock?

18 A Excessive force by law enforcement on Mr. Mock? No.

19 Q What about anybody Mr. Mock was with?

20 A No.

21 Q Nobody around Mr. Mock?

22 A Not what I think was excessive force, no.

23 Q Okay. Now, you talked a little bit on direct about
24 flash-bangs. Those are stun grenades, right?

25 A Yeah, that's -- it could be. I mean, we don't call it

1 that. I have heard it called flash-bangs or bangs, but it is a
2 very loud noise. I have heard them go off.

3 Q And do you think that's maybe what went off in that video
4 that was showed, I guess, toward the end of your direct?

5 A Possibly. There wasn't audio, so I don't know. I saw
6 light come from it, and there was an object thrown.

7 Q And they are super loud, right?

8 A Very loud.

9 Q That's what they are meant to do is be deafening, right?

10 A Yes.

11 Q Disorienting because they flash, they are bright, right?

12 A Yes, I believe so.

13 Q And they can cause fires, though, can't they?

14 A I don't know about that. I mean, I don't know one way or
15 the other.

16 Q Now, Mr. Mock, your investigation only found, I guess, the
17 farthest Mr. Mock had come forward onto the Capitol grounds was
18 where?

19 A It was outside the tunnel entrance on the west side.

20 Q And did he go into that tunnel?

21 A No.

22 Q And when he was at that point, was there a police line at
23 that point?

24 A I think the police were inside the tunnel trying to keep
25 the people out.

1 Q But were people -- well, so you don't have any evidence
2 that Mr. Mock ever went around the scaffolding up to the
3 western facade?

4 A No.

5 Q And you are the case agent, right? So you have been
6 sitting here the whole time, is that right, during the trial?

7 A Yes.

8 Q So you saw the video of the broken window on the, I guess
9 we will say, I am going to call it the western-facing part of
10 the Capitol. You saw that?

11 A Yes.

12 Q And do you have any evidence that Mr. Mock was connected
13 with those individuals?

14 A No evidence. I don't believe he was.

15 Q And why don't you believe he was connected with those
16 individuals?

17 A I didn't see him with any other individuals besides
18 Mr. Finnigan and Ms. Visnovec and I didn't see any video of him
19 breaking any windows or trying to get in.

20 Q Now -- and I may genuinely be confused here. You saw who
21 you believed to be Mr. Mock throw, I guess, a broken-off part
22 of a flagpole, is that right?

23 A Yes.

24 Q And then there's video later of him holding another
25 flagpole, is that right?

1 A I don't think it was a flagpole because it was brown and
2 it looked like it was wooden. It looked more to me like a
3 baton than a flagpole.

4 Q Ah, so what we've got is the things that you saw in his
5 hand. The earlier ones that relate to the assault that the
6 government has charged, that's the flagpole, right?

7 A Correct.

8 Q And it looked white in color?

9 A Yes.

10 Q And there wasn't a flag on it, right?

11 A Correct.

12 Q And then the brown, I guess, the brown looks like a baton.
13 I think we just kind of see the handle of it in the photo.
14 Have you ever recovered that baton?

15 A No.

16 Q All right. And were you part of the search warrant of his
17 house?

18 A No.

19 Q Okay. And did they find the baton, do you know?

20 A That wasn't on the list of items to be seized.

21 Q Why wouldn't it have been an item to be seized?

22 A We didn't find the video of the baton until later, so we
23 didn't know to put it there.

24 Q Ah. And when do you think you found that video with the
25 baton?

1 A It's within the past year. We continued to investigate.

2 Q Now, in some sense -- well, did Mr. Mock -- Mr. Mock was
3 arrested on June 11, 2021, is that right?

4 A Yes.

5 Q But you know now that he knew that the FBI was looking for
6 him, isn't that right?

7 A Yes, I know that now.

8 Q But you still, I guess, kept the criminal complaint sealed
9 at least initially?

10 A Well, it was signed on June 10, the day before his arrest,
11 so...

12 Q Why would you keep it sealed just for that one day?

13 MR. GORDON: Objection, relevance.

14 THE COURT: Sustained.

15 BY MR. MOYERS:

16 Q Is it so he wouldn't flee?

17 THE COURT: There's, again, no evidence he fled. He's
18 been on pretrial release and no evidence he fled. So that's
19 not an element of the charge.

20 BY MR. MOYERS:

21 Q Do you have any evidence that he destroyed evidence?

22 A So the only thing I can think of is the text messages with
23 his son. I didn't find those in his phone, so maybe. But he
24 didn't destroy, to my knowledge, any of the physical evidence,
25 and he didn't destroy his photographs or videos that I know of.

1 Q And he even had his devices right there for the executing
2 officers of the search warrant, didn't he?

3 A Absolutely.

4 Q And these aren't the actions of somebody who was trying to
5 hide anything, are they?

6 A He didn't act -- I have no information or evidence that he
7 tried to hide anything, no.

8 Q Now, just so it's clear, you have seen many, many more
9 videos of Mr. Mock than what the government has put into
10 evidence here, is that right?

11 A I have seen more.

12 Q And are there videos of his alleged assaults that you
13 didn't introduce into evidence?

14 A I don't think so.

15 Q Okay. Do you know if there were any orders given to
16 replace the barriers, the bike racks that were pushed to the
17 side or moved away?

18 A You mean the day of?

19 Q Yeah.

20 A Oh, I don't know anything about orders that were issued to
21 anybody on this day.

22 Q And you don't know about any phone alerts that may have
23 gone out to say, Hey, people don't come up here to the Capitol.

24 A Well, there was that one in the video that had been taken
25 from the defendant's phone, and it was making that noise like

1 your cell phone when it's giving you an alert. I heard that.
2 I don't know if that was, you know -- but that was an alert.
3 And then afterward, it says, This is the Metropolitan Police or
4 something like that, This is now a restricted area.

5 Q And do you know that Mr. Mock didn't go into the tunnel
6 any further because you've seen body camera footage from the
7 tunnel looking out?

8 A I just don't -- I just know that there's no evidence that
9 he went inside the Capitol ever.

10 Q Do you think Mr. Mock is a dangerous extremist?

11 MR. GORDON: Objection.

12 THE COURT: Sustained.

13 MR. MOYERS: Nothing further.

14 THE COURT: Thank you very much.

15 Redirect.

16 MR. GORDON: Your Honor, can I have one moment to talk
17 to Mr. Jones?

18 THE COURT: Okay.

19 MR. GORDON: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. GORDON:

22 Q Good afternoon again, Agent Alvarez.

23 A Good afternoon.

24 Q Do you remember on cross a little while ago when
25 Mr. Moyers was asking you about what was going on on the west

1 plaza just before the assault of Officer Collins, when
2 Mr. Moyers was asking you about whether you saw in the videos
3 you watched officers assaulting or hitting or striking or doing
4 anything to the crowd? Do you remember that set of questions?

5 A Yes.

6 Q You were asked about whether you had watched any video of
7 that area at around that time?

8 A Right.

9 Q And have you watched video from that area at that time?

10 A Yes.

11 Q All right. So we are going to go through some of that
12 video now.

13 A Okay.

14 MR. GORDON: Ms. Bell-Norwood, can I please have the
15 podium?

16 THE COURTROOM DEPUTY: It's up.

17 MR. GORDON: It's all up? Great.

18 We are going to start with Government's Exhibit 504.

19 All right.

20 BY MR. GORDON:

21 Q Now, starting here, Agent Alvarez, do you recognize the
22 location here in 504?

23 A Yes.

24 Q Okay. What is this? What are we looking at?

25 A This is the upper west terrace. And the bleachers are

1 visible in the background. And then the stairs up to the stage
2 are visible on the left-hand side. And there's a row of bike
3 racks with Capitol Police officers holding on to them.

4 Q Do you recognize the man in the camouflage hoodie that I
5 have just circled?

6 A Yes.

7 Q Who's that?

8 A That's the defendant.

9 Q Do you know the approximate time span that we are looking
10 at here? When in the afternoon is this?

11 A I believe it's around -- before 2:30.

12 Q A little bit before the assault on Officer Collins?

13 A Right.

14 (The videotape was played.)

15 BY MR. GORDON:

16 Q While we are watching, if you see an act of violence
17 against the officers, please point it out. If you see an act
18 of violence against the crowd, please point it out.

19 A Just say it?

20 Q Say so, and I will stop the video.

21 (The videotape was played.)

22 THE WITNESS: There, the guy in the red hat reached
23 out and appeared to poke one of the officers.

24 THE COURT: Again, the testimony on cross was she
25 didn't -- wasn't aware of any officers assaulting anybody. So

1 I'm not sure what the redirect is showing that there isn't.

2 I'm not sure what there is to rebut here is my --

3 MR. GORDON: I understand, Your Honor.

4 What I am addressing, Your Honor, she was asked, and I
5 objected to the inadmissible hearsay, to read a statement from
6 the defendant asserting that he was responding to violence --

7 THE COURT: Right, but that was hearsay, and so it was
8 excluded.

9 MR. GORDON: Yes, Your Honor, so that's why I am
10 responding to that. But I understand. That's fine.

11 THE COURT: And I appreciate the thoroughness,
12 Mr. Gordon, but I am also mindful of judicial resources and
13 keeping this case moving along.

14 MR. GORDON: Yes, indeed, Your Honor.

15 BY MR. GORDON:

16 Q You were asked about Exhibit 903, which was a text between
17 the defendant and Connor Finnigan. Do you remember Mr. Moyers
18 asked you about them, he and the defendant joking about bail
19 money?

20 A Yes.

21 Q And do you remember Mr. Moyers asked you, without showing
22 you the text, whether the text referred to a risk of being
23 attacked by Antifa, do you remember that?

24 A Yes.

25 Q But you would agree with me that Mr. Moyers didn't

1 actually show you the text when he asked you the question,
2 right?

3 A Right.

4 Q Let's look at that text again.

5 This is the second page of Government's Exhibit 903.

6 A Yes.

7 Q See the second message from Mr. Finnigan? He says, Have
8 fun. Don't assault any Antifa fuck wads.

9 A Yes.

10 Q What's your understanding of the difference between
11 assault and self-defense?

12 A Well --

13 THE COURT: I think the fact finder is --

14 MR. GORDON: Yes, Your Honor. All right.

15 BY MR. GORDON:

16 Q It doesn't say, Don't defend yourself from any Antifa fuck
17 wads, correct?

18 A That's correct.

19 Q And the defendant's response is the first statement, Oh,
20 yeah, she grew up in Upstate New York, who's that talking
21 about?

22 A Ms. Visnovec.

23 Q That's not responsive to the second comment, right?

24 A Correct.

25 Q But the defendant's second comment is, in response to

1 Don't assault any Antifa fuck wads is, And I'll probably get
2 arrested. Just saying. Brought the gloves. Got money in the
3 bank for bail.

4 As you now look at this, is this joking about a risk of
5 being attacked by Antifa?

6 A No.

7 Q What is it? What are they joking about?

8 A Assaulting Antifa.

9 Q You were also asked about destroying evidence, and you
10 said something about the text with AJ on the phone. Can you
11 explain what you meant by that.

12 A It's just that I didn't find those text messages in the
13 phones, and I would have expected to because it was in a date
14 range that there were text messages on that date, so I didn't
15 know why I didn't find it.

16 So that was the -- I mean, it's possible that it was
17 destroyed. It's possible. I don't know. I don't know why --

18 Q Is it unusual for you to find text messages missing from a
19 phone that you know exist because you got them from another
20 source?

21 A That is unusual.

22 MR. GORDON: Nothing further, Your Honor.

23 THE COURT: Thanks. Just one question. If you know,
24 do you know how old AJ was at the time or is now?

25 THE WITNESS: He is 21 now.

1 THE COURT: Okay. Thanks. Thanks so much. You may
2 step down.

3 Any further evidence from the government?

4 MR. GORDON: No, Your Honor. At this time the
5 government rests.

6 THE COURT: All right. Thank you. All right.
7 Mr. Moyers, do you want to make a motion for judgment of
8 acquittal and submit -- again, I am happy to hear more argument
9 on the specifics in closings.

10 MR. MOYERS: We'll make that motion now. More
11 specifically, for all the counts, but we will argue
12 specifically on their two here where we don't even know if
13 there's been a victim. We can't even identify him. And --

14 THE COURT: Do you want to come to the podium?

15 MR. MOYERS: Oh, my apologies.

16 We are going to move to acquit on all 11, but given
17 the judicial resources point, I am going to just give you
18 argument on two of them.

19 The ones where they do not identify a particular
20 victim, I think you got to kick those, and I'll tell you why,
21 right.

22 Does it look like they are police officers? Yeah,
23 they are dressed that like. Yeah, they -- you know, it would
24 seem it's most likely they were. But we don't have any live
25 testimony or anything else suggesting that they are to give us

1 that kind of confirmation.

2 And I think if you are talking about beyond a
3 reasonable doubt, any reasonable person is going to have a
4 doubt, given the chaos that day and also the time that's
5 elapsed since then, that if these were police officers and they
6 were attacked, they would have shown up by now and they would
7 have been able to identify them.

8 And so I think you've got to kick the counts that
9 involve those two because you can't say, nobody can say a
10 hundred percent -- excuse me, not a hundred percent, but nobody
11 can say beyond a reasonable doubt, Oh, yeah, those were
12 definitely federal government, you know, agents or working on
13 their behalf that day. Do you think it's likely? I mean, I
14 guess.

15 THE COURT: I'm sorry, I don't have a copy of the
16 indictment here.

17 THE COURTROOM DEPUTY: I can print one out.

18 THE COURT: If you can print one. It's the second
19 superseding indictment.

20 We will print one out, Mr. Moyers.

21 MR. MOYERS: I am sure my friend, Mr. Gordon --

22 THE COURT: If you can let me know which numbered
23 counts you are speaking about, Mr. Moyers.

24 MR. MOYERS: It would be, and I'm sure Mr. Gordon will
25 jump in --

1 MR. GORDON: In the interest of time, it's 5, 6, 8, 9,
2 and 10. 5 and 6 are the ones that specifically refer to the
3 assaults. 8, 9, and 10 are the other counts that include the
4 dangerous weapon element.

5 THE COURT: So Count 4 is regarding Officer Karlsen,
6 and then Count 5 is flagpole. And Count 6 then, is that
7 Officer Collins, or is that the shove of the unknown officer?

8 MR. GORDON: It's the shove, Your Honor. 3 is
9 Collins. 4 is Karlsen. 5 is flagpole. 6 is shove.

10 THE COURT: So which ones are you talking about then,
11 Mr. Moyers, when you are --

12 MR. MOYERS: I'm talking about 5 and 6.

13 THE COURT: On the ground that they are not federal
14 officers even though they are dressed in the same gear as
15 everyone else? So the argument is the officer component,
16 right?

17 MR. MOYERS: Yes.

18 THE COURT: Yeah, I mean, I think that's -- I don't
19 think you get there on that. I think that they're dressed in
20 the same garb as the other officers, and they are either
21 Capitol Police or they are deputized MPD officers. They are
22 dressed in the same garb, so I think, viewing the evidence in
23 the light most favorable to the government, which I have to do,
24 that that element is sufficiently met.

25 MR. MOYERS: Well, I guess then the argument I would

1 continue with is it's especially important on the flagpole, I
2 guess, assault because that's the one that does all the work
3 for the deadly, dangerous weapon.

4 And I said, I guess, even though the Court's already
5 found, Hey, this is enough, they are dressed in police gear,
6 they are there that day, we don't even -- it's not even clear
7 from the video that the government showed who the intended, I
8 guess, victim was or who was actually hit --

9 THE COURT: They don't need that for 8, 9, and 10.
10 There's no victim required for 8, 9, and 10.

11 MR. MOYERS: I guess then I would just argue finally
12 for the dangerous weapon. You know, we all know that it's not
13 restricted to just weapons itself. It's something that you
14 could use or turn into a weapon like a lamp.

15 THE COURT: So let me ask the government. There are
16 lesser included counts of 8, 9, and 10, which I assume is just
17 the entering or remaining in a restricted building or grounds,
18 and the disorderly or disruptive conduct, so there are lesser
19 includeds in each of those?

20 MR. GORDON: They exist. We are not --

21 THE COURT: I know you are not asking for them.

22 So I guess on the -- this seems to be the best
23 argument that Mr. Moyers has just made is that the flagpole,
24 the video is pretty sketchy, and it looks -- and you show me
25 something that I'm missing, which I may well be. You have seen

1 these a lot more than I have. But it looks like the piece of
2 the projectile goes toward the officer and sort of turns and
3 falls. So with a very rudimentary understanding of
4 aerodynamics, it would seem more likely that this is plastic or
5 something light rather than something heavy, which would have
6 continued in the same path and wouldn't simply have just
7 fluttered, for lack of a better word.

8 Is there -- do you want to show me what you think is
9 the best evidence that this is actually dangerous as opposed to
10 a piece of plastic that he threw at them?

11 MR. GORDON: Your Honor, I can, but with all due
12 respect, I don't need to. So under Arrington, right, the
13 standard for a dangerous or deadly weapon is either inherently
14 dangerous -- which we aren't asserting. This isn't a gun or a
15 machete. So we are proceeding under the idea that it is
16 capable of being a dangerous or deadly weapon. And the
17 standard for capable is that it can cause serious bodily injury
18 and the defendant intended to use it in that manner. That's
19 all we have to show.

20 THE COURT: Right, but --

21 MR. GORDON: So here what the defendant has done, as
22 you see in the video, is a flagpole passes by, he sort of
23 breaks the flagpole into two pieces, the flag kind of continues
24 on its way, and he's now holding on to the piece he's broken
25 off. Then he hurls that like a spear.

1 All that matters for conviction purposes -- and again,
2 we are at the Rule 29 stage right now. This is giving the
3 government the benefit of the doubt of every inference. All we
4 have to show is the moment it left his hand is that
5 aerodynamics aside, right, wind pattern aside, right, that it
6 was capable of flying through the air and striking an officer
7 in a manner that was capable, that there is a scenario where it
8 could have caused serious bodily injury. Whether it's made of
9 plastic or, you know, sharpened steel is, frankly, irrelevant
10 at that point.

11 THE COURT: Really?

12 MR. GORDON: Agree that it would be much more likely
13 to cause the injury if it was made of the sharpened steel,
14 sure. But could you gouge an eye out with a piece of plastic,
15 absolutely.

16 THE COURT: Is there anybody who didn't have a visor
17 on?

18 MR. GORDON: That doesn't matter. It's sort of the --
19 think of it like an eggshell plaintiff situation. It doesn't
20 matter whether someone is wearing a visor or not. Could it
21 have been that somebody flipped up their visor at just the
22 right moment or there was an officer that wasn't wearing a
23 helmet? Sure. It doesn't matter whether he hurls it at a
24 group of officers holding up shields. It's is it capable of
25 causing serious bodily injury at the time that he used it.

1 THE COURT: I'm wondering whether a sort of plastic
2 piece of a flagpole is so capable.

3 MR. GORDON: We don't know that it was plastic. I
4 understand what you are saying about how it turns.

5 THE COURT: It looks like, the way it moves, and
6 again, very limited viewing, that would certainly seem the best
7 inference of it, right?

8 MR. GORDON: I agree that it sort of turns in air, but
9 I don't think that's legally relevant. I understand it might
10 be, if we are talking about measures of dangerousness, like how
11 dangerous was it, okay. But it's not -- that's not what we
12 have to decide. It's actually a binary choice from a legal
13 perspective. It's either capable or it isn't.

14 So the question is, if it had made impact with an
15 officer's eye, an officer who was wearing a helmet, an officer
16 who wasn't wearing a helmet, an officer who flipped a visor up
17 or didn't, if it had made contact, could it have seriously
18 damaged that officer's eye? Yes.

19 THE COURT: So if he had thrown a pen at the officer,
20 same dangerous weapon?

21 MR. GORDON: Could be. It depends on how the person
22 used it.

23 THE COURT: If he threw it at the officer, from same
24 position, took that pen, and threw it at him.

25 MR. GORDON: So would I be making the same argument, I

1 don't know, maybe, maybe not. It depends on distance, depends
2 on a number of factors, certainly.

3 THE COURT: Right.

4 MR. GORDON: Right. But the more force it's thrown
5 with, all of those things go to measuring intent.

6 THE COURT: I agree, but if I take a piece of -- if I
7 take a -- forget the pen. If I take my Post-it notes and I
8 intend to injure you with this, darn it, Mr. Gordon, and I
9 throw it at you --

10 MR. GORDON: Yes.

11 THE COURT: -- assault with a dangerous weapon?

12 MR. GORDON: I mean --

13 THE COURT: I understand assault is part of -- intent
14 is part of it, but it's only part.

15 MR. GORDON: I agree. The question is, again, we
16 recognize we are dealing with an extreme example. So if I were
17 at a distance where you possibly could have given me the
18 world's worst paper cut on my cornea, right, could that have
19 caused -- yeah, people have scratched their eyes. It could
20 happen.

21 Now, the defendant didn't throw a Post-it note. But,
22 yes, your point is well taken. Even a Post-it note thrown with
23 the right intent at the right distance, could it? Yes.

24 THE COURT: All right. I will grant the motion as to
25 the dangerous weapon element of Counts 8, 9, and 10. I don't

1 believe -- again, I think it's close, but also in a bench
2 trial, I think it's appropriate that the -- again, I am going
3 to be making the same inferences down the road.

4 So I find that it wasn't used as a dangerous weapon.
5 And so I will grant the greater of the motion as to the element
6 on Counts 8, 9, and 10, Mr. Moyers.

7 MR. GORDON: And what about Count 5, Your Honor?

8 THE COURT: Count 5 is an assault. Still I think
9 there is an intent -- I'm sorry, and with a dangerous weapon
10 element on Count 5, yes.

11 MR. GORDON: So you are eliminating 111B?

12 THE COURT: Correct. So in other words, it's still
13 assaulting officers, but not with a dangerous weapon as to 5,
14 and then 8, 9, 10. Okay. So I --

15 MR. GORDON: Understood.

16 THE COURT: -- grant those --

17 MR. GORDON: But to be clear, the lesser included
18 elements of 8, 9, and 10 survive. It's just the enhancement
19 that --

20 THE COURT: As to those five.

21 MR. GORDON: Yes, sir.

22 THE COURT: Thank you. Let's take ten minutes,
23 Mr. Moyers, and then we will have you come back and hear the
24 defense case if there will be one.

25 (A recess was taken at 2:50 p.m.)

1 THE COURT: All right. Defense.

2 MR. MOYERS: Brian Mock --

3 THE COURT: Hold on. This is your --

4 MR. MOYERS: Opening.

5 THE COURT: Oh, you are going to give your opening?

6 Oh, fine. Go ahead. I forgot you reserved. Go right ahead.

7 MR. MOYERS: Okay.

8 Brian Mock is a jerk. He's loud. He's opinionated.
9 He is ironic. He teases. He exaggerates. He's also very
10 verbal. He's very bright and one of the most well-read people
11 I have come across who just does it in his own time.

12 And as you've probably seen throughout the trial so
13 far, these are issues he cares about.

14 We have heard that he was born in Virginia 20 years
15 ago in the D.C. area. The area is familiar to him. And he
16 spent about the first 20 years of his life there, bounced
17 around a little in Montana, and then eventually came to
18 Minnesota.

19 Now, what you will see in the defense case is that
20 Mr. Mock is not like many or, I guess I would say, a lot of the
21 protesters that were there on January 6 who I am going to call
22 seditionists, people who wanted a violent overthrow of the
23 government.

24 Brian Mock isn't like that. He's not some frothing at
25 the mouth ideologue, and he's not a revolutionary. What he is

1 is somebody who sees the system infected by money. He sees the
2 system infected by people who are only out for themselves. And
3 he sees the system is not serving the vast majority of
4 Americans.

5 And so what Mr. Mock did, he voted in the presidential
6 election, like many of us did. And then he read reports that
7 he will tell you about, and he will tell you about being on the
8 internet. We have seen that already through his social media.
9 But over November and December, the things that he's reading
10 are starting to give him serious concerns about the integrity
11 and accuracy of the presidential election.

12 He's reading reports about irregularities in Arizona,
13 Pennsylvania, Florida, Ohio, others, and he forms a belief that
14 something is rotten, something's no good. There are questions
15 about this.

16 And as he reads more and more, he decides, you know, I
17 am going to have my voice heard. I am going to come to the
18 Capitol, and I am going to complain. I am going to exercise my
19 free speech rights. I am going to yell at them. It may be
20 offensive. It may be unpleasant. But he's going to come and
21 yell.

22 And that's what he did on the 12th. Now, the 12th is
23 really important here because when Mr. Mock goes, a couple
24 things. His experience is a good one. Certainly not the size
25 that would come up on the 6th, but it was mostly a peaceful

1 crowd. And the trouble didn't start until counterprotesters,
2 and we will just call them people concerned about the election,
3 Trump ralliers, that's when the fighting started.

4 And so Mr. Mock went home, I guess, with two lessons.
5 First, and he will tell you this, it was energizing for him to
6 see people from all parts of America that shared his
7 scepticism, that shared his concerns, and that the people in
8 that group were as diverse of backgrounds and opinions as any
9 random group of Americans would be. They shared his belief
10 that this election just wasn't handled right.

11 Now, the second lesson is an important one, which is
12 he found it completely safe. There wasn't trouble until the
13 counterprotesters and, we'll say, the Trump ralliers came
14 together. And that's when things got unsafe. And then he read
15 in the days that followed after that that there were actually
16 stabbings, that a lot of people were injured.

17 And so what he's thinking about in December, you see
18 this already in the government's -- what they put forward in
19 terms of Facebook messages is he's getting increasingly
20 concerned about these -- that this election, that the winner
21 isn't the actual winner.

22 And so what he does is he plans to go to the next
23 rally, the next big one, which is the 6th. And why is that
24 important?

25 Well, Brian Mock has read the Twelfth Amendment.

1 Brian Mock reads. Brian Mock read, I think he will tell you,
2 about learning about how Senator Hawley explained the process
3 of we have the certification process and that there -- that he
4 along with others are going to object to it.

5 And that's what Mr. Mock ultimately came to Washington
6 to do, not stop the process, but to show his support for one,
7 the process whereby the election results that are brought from
8 the states, that they can complain about that, that senators
9 that are elected representatives can object, make a stink,
10 whatever you want to call it, and that he wanted Congress to
11 literally hear him outside while they are making that decision.
12 While they are making that decision, he wants to influence them
13 with his words, by being loud. And that's what he does.

14 So he gets to Washington, D.C., leaves the night of
15 the 4th, drives all the way through from Minnesota, Wisconsin,
16 down through Illinois, Indiana, Ohio, Pennsylvania, goes
17 through Breezewood, Maryland, down into Virginia on the evening
18 of the 5th. He'll tell you he showed up on the 6th in the
19 morning.

20 He was with Ms. Visnovec and his friend Connor
21 Finnigan. And they get out in the Ellipse, probably the
22 southeast -- yeah, the southeast corner. And for hours that
23 morning and into the afternoon, it's just speeches, going
24 around meeting other people like them, families, old people,
25 young people, people his age, people from all over the country

1 that share his concern.

2 And what he knows at that point makes him feel a lot
3 better about the event, and his expectations that there might
4 be trouble are kind of diminished in those first couple -- in
5 the first half of that day.

6 Unlike on the 12th, what he sees is there is enormous
7 organization that there just wasn't on the 12th. He will talk
8 about seeing traffic cut off, barriers, signage. And what he
9 will also talk about is learning online that there were permits
10 issued, permits issued to march and permits issued to
11 demonstrate.

12 And he's got every reason to believe, I'm allowed to
13 be there. I'm allowed to come and yell and make my voice
14 heard. I'm allowed even to come and be a jerk about it.

15 And what he does is -- that's at least several hours
16 in the morning from maybe 8:00 or 9:00 until the early
17 afternoon. And once the then president finishes with his
18 speech, he's got every reason to believe that this permit -- or
19 he's authorized to go down and complain at the Capitol. The
20 president says as much.

21 And so he, along with, you know, you have seen the
22 government's videos, tens of thousands of others, walk down
23 Constitution. It comes together with Pennsylvania. What he
24 will tell you is as he's walking down, the three of them
25 decide, hey, it's getting well past noon. They are hungry.

1 They stop at a taco truck, at a taco truck right before they
2 get in. I guess it's strategically kind of placed at the
3 opening to where the Peace Monument is.

4 And what Mr. Mock will tell you is that he didn't see
5 signs that said, Oh, you can't be there, Oh, this is a
6 restricted area. It just doesn't fit with -- he's got nothing
7 to defeat his expectations about what he was going to do --
8 what he was allowed to do that day or where he was allowed to
9 be. And so what Mr. Mock did was he goes up and he starts
10 complaining. That's what he did.

11 And we will get more into this. Mr. Mock will talk at
12 some length and explain and be able to detail for you his
13 movements for a lot of it. He's not going to be able to
14 remember everything. Some of the stuff he does. Some of the
15 stuff he doesn't.

16 And he's going to tell you, Look, I remember this
17 specifically, or this I kind of remember but not really. He's
18 going to give you an honest appraisal of what he thinks he did,
19 what he remembers doing, and what he just didn't do at all.

20 Now, the most important fact, at least from Mr. Mock's
21 point of view, is going to be he had every opportunity to
22 disrupt the process. He could have gone in over the
23 scaffolding and gone with the folks that broke in through the
24 window. When he had opportunities to push his way into the
25 infamous tunnel, he didn't. He stayed where he thought he was

1 allowed, the lower west terrace. And that's where he
2 complained. That's where he was a jerk. That's where he was a
3 blowhard. But he cares. It's an issue that matters to him,
4 and he cares.

5 And so the question comes up, oh, well, once things
6 started to get raucous, once there started to be tear gas, once
7 their started to be violence, why didn't he leave, why didn't
8 he go.

9 Well, what he will explain is, first of all, he had
10 every right to be there. He doesn't think he's committing any
11 crime by being there.

12 And second of all, it's important to understand that
13 he gets separated from others and that cell phones are working
14 intermittently, if at all. And he knows if he just starts
15 wandering somewhere where he and his friends haven't been, they
16 are never going to find him. The crowd is huge. We don't even
17 see how enormous it is from the government's evidence because
18 the horizon for the overhead cam just simply doesn't go as far
19 as the crowd went. It's a lot of people.

20 And so he spends the afternoon there protesting but
21 not going further, not doing the things that suggest or that
22 would show, hey, I'm trying to interfere with the
23 certification. I am trying to prevent any part of the federal
24 government from doing its job.

25 No. He wants our elected represents who are in there

1 to hear him, along with others, saying this election was no
2 good, and I want you to object to it. I don't want you,
3 elected representatives, to be doing that in my name, in the
4 names of others like me.

5 Now, Mr. Mock, yes, when leaves, when he's done, he
6 spends time on social media. He texts friends. He sends
7 messages to them. And yes, he's proud. He's proud that he
8 went there. He's proud that he went there, that he got to say
9 what he wanted to say, and that, look, the subject of tear gas,
10 CS gas, he saw acts of brutality on both sides, and he saw
11 things that really, really upset him.

12 But they also underscored his biggest fear, which is
13 that when people like him who want to share their views who
14 want to do so in a way that other people don't like, that the
15 government will react violently and with a lot of force and
16 that will treat an entire group of people as dangerous and
17 unlawful based on what the worst members of that group do.

18 And that's what's so interesting about hearing
19 Inspector Loyd's testimony is that, of course the government
20 and law enforcement sees a crowd of people as a single unit
21 because their job is to keep themselves safe first. They can't
22 keep other people safe if they are not safe.

23 MR. GORDON: Objection. Commenting on testimony is
24 beyond the scope of an opening.

25 MR. MOYERS: I can move on.

1 The point is that he saw violence that day that he
2 hadn't ever seen or contemplated based on his December 12 visit
3 to the Capitol.

4 Now, is Brian Mock unwise or reckless for remaining
5 there? Like, how can a father of four remain in such a
6 dangerous situation? Yeah, you can call him a bad father. You
7 can call him reckless. You can call him just idiotic with
8 risks. And you can call him all sorts of names, but you won't
9 be able to call him a criminal after the end of this evidence
10 because what it shows is that Mr. Mock's intent was not to
11 disrupt the government, disrupt any kind of certification of
12 the vote. He wanted the process to go forward. He wanted to
13 show the objections. He wanted those to go forward.

14 And look, you will see for the assaults or the alleged
15 assaults, either they just didn't happen, meaning he never
16 kicked anybody, couldn't have kicked anybody, and at least as
17 far as the shove goes, that it wasn't intentional. He will
18 explain to you how he got in that situation and how he reacted.

19 Now, Mr. Mock is going to talk at some length and in
20 some detail, but he's not going to have detail for everything.
21 And Mr. Mock is going to explain that, you know, over these, I
22 guess, two-plus years that he's been dealing with this, he's
23 tried as hard as he can to remember some things, and he just
24 can't. Videos help, but it's not going to give him perfect
25 recall.

1 So what I think Your Honor will see once we have
2 talked to Mr. Mock and seen all the evidence in the case, you
3 are going to conclude that he didn't break any laws here. The
4 intent just wasn't there for Counts 1 and 2. The assaults
5 either didn't happen, or they were incidental. And then
6 finally, he thought he was there, he thought he was there
7 lawfully.

8 Now, I do have to caveat this a little bit. Mr. Mock
9 doesn't remember taking the shields, and he will tell you that.
10 But also he'll talk about how his intent was not to permanently
11 deprive the government of those shields. He will talk about
12 how other protesters were using them as weapons and even using
13 the bike racks as weapons and that he and others tried to stop
14 that when they could.

15 So I think when the Court has seen all the evidence
16 and heard Mr. Mock, it will come to the conclusion that, yes,
17 he's a jerk, he's a blowhard, he's passionate, maybe even
18 reckless, but he's not a criminal in the way they have accused
19 him, and you are going to find him not guilty. Thank you.

20 THE COURT: Thank you very much. You may call your
21 first witness.

22 MR. MOYERS: We will call Officer Stevin Karlsen.

23 THE COURT: All right. Good afternoon, sir. You
24 remain under oath, so please just take the stand and restate
25 your name if you would be so kind.

1 THE WITNESS: Yes, sir.

2 STEVIN KARLSEN

3 Having been first duly sworn on oath, was examined and
4 testified as follows:

5 THE WITNESS: My name is Stevin Karlsen, S-T-E-V-I-N
6 K-A-R-L-S-E-N.

7 DIRECT EXAMINATION

8 BY MR. MOYERS:

9 Q Good afternoon, Officer Karlsen. I am going to show you
10 what we are going to call Defense Exhibit 2.

11 MR. GORDON: Your Honor, I haven't seen any defense
12 exhibits.

13 No objection, Your Honor.

14 THE COURT: Okay.

15 MR. MOYERS: May I approach, Your Honor?

16 THE COURT: You may. No need to ask.

17 BY MR. MOYERS:

18 Q Officer Karlsen, I have put in front of you what has been
19 marked as Defense Exhibit 2. Do you recognize, I guess, the
20 body camera, I guess we will call it the body camera serial
21 number in the upper right side?

22 A Do I recognize it?

23 Q Yes.

24 A I don't recognize it, no.

25 Q How about we will do it this way. Can you watch that

1 video, it's 27 seconds, and let -- tell me if you recognize it.

2 A Okay.

3 (The videotape was played.)

4 THE WITNESS: Yeah, I have seen this footage before.

5 BY MR. MOYERS:

6 Q Can you tell me what that video is?

7 A It's body-worn camera footage. And at one point in the
8 video, you see myself getting shoved down to the ground.

9 Q Okay.

10 MR. MOYERS: I am going to move Exhibit 2 into
11 evidence.

12 THE COURT: Admitted.

13 (Defendant's 2 received in evidence.)

14 BY MR. MOYERS:

15 Q Now I'm going to bring it forward here. Can you see it on
16 your screen?

17 A Yes.

18 Q I am going to bring it forward here. I'm stopping here.
19 It's at -- the time is 14:34:07.

20 Do you remember testifying yesterday about the hard gear
21 that you were given as part of that unit?

22 A Yes.

23 Q And can you show on here where -- I believe you said your
24 firearm is on your left hip. Is that right?

25 A Yes.

1 Q And can you just circle that, or how about this. Is that
2 what you are talking about when you are referring to the
3 firearm on your left hip (indicating)?

4 A Yes.

5 Q Okay. And I believe you testified yesterday that you
6 had -- you recall you had both hands on your shield, right?

7 A Yes, arm, hands, yes.

8 Q Yeah, yeah. I am going to move it a little further
9 forward here.

10 Now, I believe on direct or cross yesterday you described
11 looking kind of down to your right. What do you recall the
12 reason was for looking down to your right?

13 A I knew that there was some kind of step approaching behind
14 me. I didn't know where exactly, so I was looking for that.

15 MR. GORDON: Your Honor, can I just object
16 procedurally. None of this is beyond the scope of direct
17 yesterday. This is a rehash of cross yesterday. Mr. Moyers's
18 reason for recalling these witnesses --

19 THE COURT: Let's hear. I will certainly be
20 interested to know the justification for why we had to do it
21 this way at the end. So I'll give him some leeway.

22 Go ahead.

23 BY MR. MOYERS:

24 Q And what I am going to ask now is I am going to ask if you
25 hear anything.

1 MR. GORDON: Your Honor, Mr. Moyers showed me the
2 exhibit. He silenced it. I don't know what the audio has in
3 it.

4 MR. MOYERS: Do you want me to give it to you?

5 THE COURT: Again, this is a government exhibit. It's
6 government footage, right? So he can show it.

7 Go ahead.

8 MR. GORDON: I assume so. I don't know if he doesn't
9 play it for me.

10 MR. MOYERS: I'm going to play here from, say,
11 1:43:01.

12 (The videotape was played.)

13 BY MR. MOYERS:

14 Q So, first thing, that's not how it exactly sounded that
15 day, is it?

16 A No.

17 Q This is slowed down, and it distorts the sounds, is that
18 right?

19 A Uh-huh.

20 Q So that wouldn't have been what it exactly sounded like at
21 the time, right?

22 A Right.

23 Q And could you hear anything or do you remember hearing
24 anything right before what you are calling a shove, what we
25 call a trip, do you remember hearing anything specifically?

1 A No.

2 Q And after that, I believe you were talking about an
3 Officer Young who was the one that picked you up?

4 A Yes.

5 Q Did you hear anything from him or others at the time, like
6 words, I guess?

7 A No.

8 Q And I believe -- and you didn't -- when you are getting
9 pulled back to -- I guess you went into the tunnel right after
10 that, is that right?

11 A The staircase behind me.

12 Q And that would be the first time that you spoke with other
13 officers?

14 A I didn't speak with any officers.

15 Q Okay. But that would be the first time you maybe heard
16 anything clearly?

17 A I didn't hear things too clearly until I got way up on the
18 upper west terrace area and removed my gas mask and helmet.
19 That's when I started kind of hearing things more clearly.

20 Q Obviously because your ears were obstructed by the gas
21 mask and helmet?

22 MR. GORDON: Objection, leading.

23 THE WITNESS: Yes.

24 THE COURT: Overruled.

25 MR. MOYERS: I will withdraw it.

1 BY MR. MOYERS:

2 Q I'm going to show you now what's been marked as
3 Government's Exhibit 403.c, but I am going to slow it down and
4 bring it forward just a little.

5 You recognize yourself in the video obviously?

6 A Yes.

7 Q My client. It kind of looks as if you are looking in this
8 direction, I guess, at least at Mr. Mock. Did you remember
9 seeing anything at this point or no?

10 A No.

11 Q All right. And you see Mr. Mock gesturing with his hand?

12 A Yes.

13 Q All right. Was he saying anything?

14 A Not that I can recall.

15 Q And I know the answer, I think I know the answer, but did
16 you say you were going to shoot my client?

17 A No.

18 Q And you didn't hear anybody else say, stop or I'll shoot
19 or something to that effect?

20 A Not that I can recall.

21 Q Now, what I am going to move on to now is when you
22 deployed that day, where did your orders -- who was your direct
23 superior officer that day?

24 MR. GORDON: Objection, relevance.

25 MR. MOYERS: I want to go into how he got down to

1 the --

2 THE COURT: Who cares?

3 MR. MOYERS: I'll move on.

4 One moment, Your Honor.

5 THE COURT: Okay.

6 BY MR. MOYERS:

7 Q Officer Karlsen, I asked you yesterday when you think the
8 first time you met with law enforcement was. Did sleeping
9 overnight or anything trigger your memory to make it any more
10 clear about when the first time you met was?

11 A Within the first year after the 6th. I just can't
12 remember.

13 Q And when I say, you know, speak with law enforcement, I'm
14 talking about the FBI or maybe your superiors at the Capitol
15 Police.

16 A I spoke with individuals within the Capitol Police
17 immediately following the 6th probably on a daily basis talking
18 about that day and what we went through and stuff like that.
19 But with the FBI, it was later on. I just can't remember
20 exactly.

21 Q And you never felt any pressure, or did you, to remember
22 as clearly as you could what happened that day?

23 A No.

24 Q And when you wrote about -- is it fair to say that you had
25 criticisms of how your superiors handled things that day?

1 MR. GORDON: Objection, asked and answered yesterday
2 on cross.

3 THE COURT: It's also irrelevant.

4 BY MR. MOYERS:

5 Q The videos that you were shown yesterday by the
6 government, are those the only videos you saw of this alleged
7 shove, or do you think you saw more videos than --

8 A No, just what I saw yesterday.

9 Q So as far as you know, the videos that the government
10 chose are the only ones that you have seen before?

11 A As far as I know.

12 Q And do you think if you saw other videos of that day,
13 would you be able to identify where you were?

14 A Depends on the footage. It's really hard.

15 Q And because it was difficult, I guess, and is that because
16 it can be difficult to identify or pick yourself out of a
17 video?

18 A Yes.

19 MR. MOYERS: Your Honor, we are going to yield on this
20 witness.

21 THE COURT: Again, I'm not sure why we had to bring
22 him back today for this.

23 MR. MOYERS: He's done.

24 THE COURT: Again, we have sufficiently inconvenienced
25 him.

1 Any cross, Mr. Gordon?

2 MR. GORDON: No, Your Honor.

3 THE COURT: Thank you.

4 Thank you, Officer Karlsen. Sorry we had to bring you
5 back.

6 THE WITNESS: Thank you, Your Honor.

7 MR. GORDON: Your Honor, I anticipate that the defense
8 is about to call Officer Collins as their next witness. Before
9 we do that, can we get a proffer from the defense about the
10 purpose of doing so?

11 THE COURT: All right. Mr. Moyers, let's hear that.

12 MR. MOYERS: We managed to find video overnight that
13 shows, I guess, the alleged kicking from a different angle.
14 And I would like the guy that was allegedly there to be able to
15 comment on it, first of all, say, like, is this depicting --

16 THE COURT: But then why did you ask yesterday that he
17 be recalled if you didn't find this until overnight?

18 MR. MOYERS: Mr. Mock was certain that there was other
19 video in, you know, the huge repository of video.

20 THE COURT: All right. You may call him. Very well.
21 That sounds like a good faith belief.

22 MR. GORDON: For efficiency, Your Honor, can we see
23 the video before we put the witness on the stand?

24 THE COURT: I don't see -- no.

25 You can put him on.

1 Officer Collins. Welcome back. You may take the
2 stand. You remain under oath. Do you understand that?

3 THE WITNESS: Yes, sir.

4 JONATHAN COLLINS

5 Having been previously duly sworn on oath, was examined and
6 testified as follows:

7 THE COURT: Please state your name again for the
8 record.

9 THE WITNESS: Jonathan Sean Collins.

10 THE COURT: You may have a seat.

11 DIRECT EXAMINATION

12 BY MR. MOYERS:

13 Q So I'm going to start -- good afternoon, Officer Collins.

14 A How are you doing?

15 Q What I am going to start with is Government's Exhibit
16 No. 2 that I have slowed down a little.

17 (The videotape was played.)

18 BY MR. MOYERS:

19 Q You see I have stopped here at 14:29:23. Is that Mr. Mock
20 right here (indicating)?

21 A I don't know.

22 Q Okay. About how far away -- I guess you have looked at
23 body camera videos before, haven't you?

24 A Some, yes.

25 Q And can you tell, based on this video -- well, let me ask

1 you this: Where do you think you are in this video, if
2 anywhere?

3 A Do you want me to draw on the screen?

4 Q Yes.

5 A This officer right here (indicating).

6 Q Could you estimate how far Mr. Mock is or the person that
7 we are going to call Mr. Mock is from you?

8 A A couple of feet maybe.

9 Q What I am going to do, I am going to back up a little, but
10 I want you to tell me when, I guess, you think the kick
11 happens.

12 (The videotape was played.)

13 BY MR. MOYERS:

14 Q I'm just going to move it forward manually. You tell me
15 when to stop. Okay?

16 A Okay.

17 (The videotape was played.)

18 THE WITNESS: About right there, about the 1:50 mark.

19 BY MR. MOYERS:

20 Q So I guess it's about 129 of 151 about 14:29:25, is that
21 right?

22 A That would be my guess. I can't see obviously with the
23 hand in the way.

24 Q And can you see any part of yourself in 402 here at this
25 point?

1 A Yes, down the bottom here.

2 Q Is that, I guess, the little -- or I'll say where you
3 circled right there on the red, I guess, the -- do you know
4 what that is or why that's red?

5 A It's part of the hard gear. It looks like it's my left
6 hip, the back side of it.

7 Q Got you. Now, have you seen -- is this body camera video
8 the only video you have ever seen of this alleged kick?

9 A No.

10 Q And so you saw others from the government?

11 A Yes.

12 Q Do you think you would be able to recognize them if I
13 showed you?

14 A Possibly.

15 Q I'm going to show you what's previously been marked as
16 Defense Exhibit 1, which I am going to show to Mr. Gordon now.

17 MR. JONES: That's my witness.

18 MR. MOYERS: Oh, which I am going to show to Mr. Jones
19 now.

20 BY MR. MOYERS:

21 Q Can you see it now on your screen?

22 A Yes.

23 Q And do you remember this, I guess, at least this video
24 from yesterday when I showed it to you?

25 A I believe so.

1 Q Now, I am going to fast-forward here.

2 (The videotape was played.)

3 BY MR. MOYERS:

4 Q Now, is this, I guess where I have the mouse right here,
5 is that that red thing we were talking about from the other
6 video?

7 A Yes, I think so.

8 Q All right. And we are seeing, I guess, this bearded
9 gentleman here where my mouse is.

10 A Uh-huh.

11 Q So this video is taken, I guess, from the other side of
12 the incident. Is that fair to say --

13 A Yes.

14 Q -- compared to the other video?

15 And can you see who we have been calling Mr. Mock in this
16 video too?

17 A Possibly over here down towards the time stamp.

18 Q Is that Mr. Mock there?

19 A I believe so.

20 Q Where my mouse is?

21 A Yes, that's the individual I was referring to.

22 Q All right. Can you estimate how far he is from you there?

23 A 3, 4 feet.

24 Q And if it does, I am going to go forward, can you tell me
25 where, if this video depicts the kick, where it would be.

1 (The videotape was played.)

2 BY MR. MOYERS:

3 Q In fact, I will just play the last 20 seconds.

4 (The videotape was played.)

5 BY MR. MOYERS:

6 Q Is it fair to say that the rest of that video you can't
7 really see where the kick would have been?

8 A Yes, I would say that.

9 THE COURT: Okay. Let's keep it moving, Mr. Moyers.
10 Next question or not.

11 MR. MOYERS: I have no further questions.

12 THE COURT: Thank you.

13 Any cross?

14 MR. JONES: Your Honor, no, but I would also like to
15 note for the record the witness was not shown any new video
16 that he wasn't shown yesterday.

17 THE COURT: I think, again, this was not a wise use of
18 my time or either witnesses' time. I understand that, sir.

19 You may be excused. Sorry to have inconvenienced you
20 again today.

21 THE WITNESS: Yes, sir.

22 THE COURT: Next witness.

23 THE DEFENDANT: Your Honor, can I address the Court?

24 THE COURT: No. You have a lawyer.

25 THE DEFENDANT: That's what I need to address the

1 Court about right now. My lawyer just lied to you in open
2 court about me.

3 THE COURT: Wait.

4 THE DEFENDANT: I understand.

5 THE COURT: All right. Hold on. Let me -- I am going
6 to have -- everyone aside from the defense step out for a
7 moment, please. Spectators also.

8 (The courtroom was cleared except for the defense.)

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

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14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

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[REDACTED]

1 (The courtroom was opened.)

2 THE COURT: Mr. Mock has informed me that he wishes to
3 represent himself for the remainder of the trial. I need to
4 conduct a Faretta inquiry to ensure that that is appropriate.
5 We had done one earlier in the case, so I believe that it is
6 likely that he would pass a Faretta inquiry. But what I want
7 to do is, let's take a ten-minute recess now. We will come
8 back, do the inquiry, and then we will talk about what that
9 means because I believe, based on what he has told me, that he
10 would -- that he may wish to put on some other defense
11 evidence. So we will discuss that when we return. Okay?

12 Ten minutes. Thank you.

13 Mr. Mock, over the recess, one thing I want you to
14 consider is whether you would like Mr. Moyers to remain as a
15 standby counsel for the remainder of the trial or not. I will
16 offer you that option. So think about that.

17 MR. GORDON: Your Honor, may I flag one other thing
18 before we --

19 THE COURT: You may.

20 MR. GORDON: Just for efficiency's sake, when we had
21 at break prior asked Mr. Moyers what other witnesses he
22 expected to call, he said there was a possibility that he would
23 call Connor Finnigan.

24 Because Mr. Finnigan was present on Capitol grounds on
25 January 6, he does have some legal exposure. So standard

1 course of operations, I believe, that if they are going to go
2 that route, Mr. Finnigan ought to have the opportunity to
3 consult with counsel.

4 THE COURT: Okay. Thanks.

5 (A recess was taken at 4:08 p.m.)

6 THE COURT: Okay. Welcome back, folks.

7 Mr. Mock, is it still your intent to represent
8 yourself going forward?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And if I permit that, do you want
11 Mr. Moyers to remain as standby counsel or not?

12 THE DEFENDANT: Yes.

13 THE COURT: Mr. Moyers, if I grant this request, are
14 you willing to do that?

15 MR. MOYERS: Yes, Your Honor.

16 THE COURT: All right. Mr. Mock, I am going to have
17 you come to the podium.

18 We have done this Faretta inquiry before.

19 THE DEFENDANT: Full circle, yes, sir.

20 THE COURT: And I found that you had sufficiently --
21 it was a knowing and voluntary decision to represent yourself,
22 which you did for a number of months in this case before
23 retaining counsel.

24 So first of all, all of the things I asked you at that
25 time, is your answer still the same in terms of your

1 background, education, mental health, comprehension of the law?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. So you understand that -- and I've
4 got to go through some of these questions.

5 THE DEFENDANT: Absolutely, yes.

6 THE COURT: -- that Mr. Moyers is obviously an
7 experienced lawyer. He's been conducting this trial. He has
8 cross-examined witnesses. He's made the defense opening
9 statement. He has made a motion for judgment of acquittal that
10 was granted as to the dangerous weapon element of four
11 different counts.

12 You understand that if you are proceeding to represent
13 yourself for the rest of the trial, that I will treat you as a
14 lawyer and that you will have to comply with all rules of
15 court?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you understand that I am not going to
18 go back and reopen the trial. In other words, where we stand
19 right now is in the middle of the defense case. You won't be
20 able to cross-examine government witnesses who have already
21 testified. You won't be able to give an opening statement.
22 That is already done.

23 What you will be able to do is call other defense
24 witnesses if you wish, testify yourself if you wish, give a
25 closing argument if you wish, but those are the only pieces of

1 the trial that remain. Do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: In addition, you can't do some and have
4 Mr. Moyers do some. In other words, he can give you advice as
5 your standby counsel, but you and you alone are acting as the
6 lawyer going forward. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, Mr. Moyers stated in the defense
9 opening that you would testify. You do not have -- you should
10 make that decision independently when the time comes. Just
11 because he said you would testify, you are not bound by that.
12 And if you decide not to testify, I will not hold that against
13 you despite what he said in that opening. Do you understand
14 that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: In addition, if you are convicted here of
17 any count, then you would be representing yourself in regard to
18 sentencing also. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now, you would still, if you chose -- if
21 you were convicted and if you wished to appeal, you could still
22 retain an attorney for an appeal. And if you could not afford
23 one, one would be appointed for you. Do you understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Now, do you understand that if you

1 represent yourself and you call witnesses or you want to
2 introduce exhibits, the government will be able to object to
3 those if there's a legal basis and you will have to figure out
4 the correct response for that? Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: You will have to comply with the rules of
7 evidence going forward in your case. Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: In addition, if you end up being
10 convicted, you can't claim on appeal that your lack of legal
11 knowledge or your inability -- or your lack of training
12 hampered your case from this point forward.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: So do you understand the dangers and
15 disadvantages of representing yourself?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And do you understand all the charges
18 against you at this point?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now, again, I asked you last time about
21 your age, your ability to read or write, your education. I
22 will ask you again, are you currently under the influence of
23 any drugs or alcohol?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Since we had this earlier inquiry, have

1 you been diagnosed or treated for a mental illness?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Do you have any questions about
4 representing yourself going forward?

5 THE DEFENDANT: I don't believe so, Your Honor.

6 THE COURT: All right. Based on -- again, this
7 Faretta inquiry was somewhat abbreviated, but based on my prior
8 lengthier Faretta inquiry, the defendant's answers in that
9 inquiry, and his answers in this inquiry, as well as my many
10 discussions with the defendant while he represented himself in
11 a competent fashion largely relating to bond issues, I find
12 that he is making a knowing and intelligent waiver of his right
13 to counsel going forward, and I will permit him to represent
14 himself going forward.

15 Okay. So now just a moment.

16 And I will have Mr. Moyers remain as standby counsel.

17 Thank you for doing that, Mr. Moyers.

18 Okay. So let's talk about scheduling, Mr. Mock, and
19 what you want to do in terms of witnesses or evidence for the
20 remainder of the defense case. Go ahead.

21 THE DEFENDANT: Yeah. Well, I do have questions that
22 I would love to ask Mr. Collins. I will let that rest where
23 it's at. I think we were fine yesterday.

24 THE COURT: So just so -- one other thing relating to
25 what you mentioned during the earlier session where we spoke is

1 if there are video exhibits you wish to admit that have been
2 produced by the government to you, you don't need a witness.
3 You can just move to admit the exhibits, and then you can argue
4 about them in your closing argument, just so you know that.

5 THE DEFENDANT: Absolutely.

6 Yeah, I have a few witnesses that I plan on calling.
7 Two are actually literally flying in at the moment.

8 THE COURT: Okay. So I need to know their names and
9 other information.

10 Okay. So the first one?

11 THE DEFENDANT: Connor Finnigan, F-I-N-N-I-G-A-N.

12 THE COURT: Uh-huh.

13 THE DEFENDANT: My son AJ Mock, Anthony James Mock.
14 And then Sheila Price will be testifying as well. And then
15 Gary McBride, and then myself.

16 THE COURT: Those are four witnesses. Let's talk a
17 little bit about what they are going to testify to because,
18 again, I need to ensure that they are appropriate witnesses.

19 So what would Mr. Finnigan just broadly be testifying
20 about?

21 THE DEFENDANT: Yes, he's -- basically information
22 that's already been brought forward based on the emails, some
23 of the Facebook posts, obviously travel to and from, he's known
24 me for 20-some odd years, and then the events of January 6 as
25 well.

1 THE COURT: Okay. So that's okay. And your son AJ
2 Mock.

3 THE DEFENDANT: My son was actually questioned pretty
4 heavily. He was actually a prosecution witness. They had
5 subpoenaed him. Actually, Mr. Finnigan as well. They canceled
6 that subpoena on Friday. He will talk a bit about the text
7 messages that were brought forward as well as events leading up
8 to and post January 6.

9 THE COURT: Okay. And Sheila Price?

10 THE DEFENDANT: Sheila Price as well. She has a 302
11 currently. The FBI had conducted inquiry with her. Basically
12 that will speak to some credibility issues as well as her
13 background with me and what I have talked to her about post
14 January 6 that was discussed with the FBI agent.

15 THE COURT: Okay. So I'm not sure about, again,
16 whatever she talked about to the FBI agent, maybe that becomes
17 relevant or maybe not. But is she testifying as a character
18 witness, or is she testifying as to what she saw or heard?

19 THE DEFENDANT: Both.

20 THE COURT: Okay. And so saw and heard, she wasn't
21 present.

22 THE DEFENDANT: She wasn't present at the time. It
23 was our discussions after the fact.

24 THE COURT: All right. So let me just -- I'll tell
25 you one other thing to keep in mind. So the government can

1 introduce statements you made because there's a hearsay
2 exception for -- it's not even hearsay if it's a statement of a
3 party opponent in this case. So your statements they can
4 introduce.

5 You can't introduce your own statements. They would
6 be hearsay if they were admitted for the truth. They would
7 need to be admitted to show your state of mind. But, for
8 example, if you wanted to say to her -- if she were going to
9 testify that you said to her, I didn't attack any officers,
10 that would be hearsay, and she would not be able to testify to
11 that. She could testify, again, as to your state of mind, but
12 what you told her could not be admitted for its truth. Do you
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Gary McBride?

16 THE DEFENDANT: As a summary witness.

17 THE COURT: I'm sorry, as a?

18 THE DEFENDANT: As a summary witness.

19 THE COURT: You are going to have to tell me what that
20 means because the government can introduce case agents as
21 summary witnesses, but there's no such thing for the defense.

22 THE DEFENDANT: Okay. And I might be using the wrong
23 language. Fair enough.

24 Basically, he's a video expert at this point on
25 January 6. He's testified in other trials, to my knowledge.

1 Basically what I want to bring forward is videos from the lower
2 west terrace to refute some of the prior testimony.

3 THE COURT: All right. So he -- okay. So these are
4 videos that you have -- that the government has provided you?

5 THE DEFENDANT: Correct.

6 THE COURT: All right. So you are going to admit
7 them, and he is going to be commenting about them?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. From what perspective -- who
10 is he?

11 THE DEFENDANT: He's worked with several firms --
12 actually, Ms. Lambert can probably tell you more about his
13 experience. I was locked up for quite a while there. But he
14 had has been working with several different law firms, and he
15 has been literally reviewing videos since January 6 of --

16 THE COURT: He can't testify as an expert --

17 THE DEFENDANT: I understand that.

18 THE COURT: -- because you haven't given expert
19 notice.

20 THE DEFENDANT: Correct.

21 THE COURT: So I'm not sure -- if he's not an expert,
22 I'm not sure --

23 THE DEFENDANT: Can you give me just one moment?

24 THE COURT: Sure.

25 THE DEFENDANT: Just informed that Freidrich, Kelly,

1 and Alberts all ruled in previous cases --

2 (There was an interruption by the court reporter.)

3 THE DEFENDANT: Alberts, I believe, or Albert --
4 Cooper, I'm sorry.

5 THE COURT: Are you talking about judges?

6 THE DEFENDANT: Yes. Had all ruled that there were --
7 they had admitted summary witnesses for the defense in all
8 these Jan 6 cases. So that would be in the last several weeks,
9 months.

10 THE COURT: For this witness, Gary McBride?

11 THE DEFENDANT: For him? Is he --

12 MS. LAMBERT: So we --

13 THE COURT: You are not the lawyer.

14 THE DEFENDANT: Okay. On the three that we had just
15 stated, there were different summary witnesses at each one of
16 those. So he has not been one for those. I know he's done
17 work with, like, Ms. Lambert on a number of different cases
18 related to Jan 6.

19 THE COURT: Okay. Well, again, I will -- what I have
20 said, as I said, if there are videos you want to admit that
21 they have given you, you can admit them without any witness.

22 THE DEFENDANT: I guess the other option is to --

23 THE COURT: I'm not sure -- I mean, you can put him on
24 the stand, but the government may object. And if he's not an
25 expert, I'm not sure what his basis is going to be to testify,

1 so we will hear that.

2 THE DEFENDANT: I will work on that between now and
3 then.

4 The other option for it is to introduce those and have
5 me testify. Just from a logistics standpoint, it might be a
6 little bit of a nightmare to be asking myself the questions on
7 that to keep it flowing for the Court --

8 THE COURT: We won't have -- you are too young to have
9 seen the movie of Woody Allen in Bananas, but perhaps you have
10 seen the latest Jury Duty series where the lawyer is running
11 back and forth questioning himself. We don't do that.

12 You can sit there and you can narrate what you -- you
13 don't have to ask yourself questions. You can simply give
14 testimony. And you can introduce exhibits and point to the
15 exhibits, and it's all part of your testimony. So you are
16 certainly free to do that.

17 THE DEFENDANT: Fair.

18 THE COURT: So Mr. McBride, I'm not sure what he's
19 adding, but I will hear that, just so you know.

20 THE DEFENDANT: Fair enough.

21 THE COURT: And then at this point, are you planning
22 to testify?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. So that's -- so the only issue, as
25 the government points out, and, Mr. Gordon, you may have other

1 issues --

2 MR. GORDON: Yes.

3 THE COURT: Mr. Gordon -- hold on one moment.

4 Mr. Finnigan, to begin with, because he was there, is
5 going to have a Fifth Amendment issue. What that means is that
6 he may be incriminating himself by testifying that he was
7 there.

8 Now, if he testifies only as to text messages and your
9 character and things that happened not there, he wouldn't. But
10 if he is going to testify about anything that happened in
11 Washington that he was an eyewitness to, then he would have a
12 Fifth Amendment privilege.

13 So what we need to do is have him advised by a lawyer
14 to see if he will waive that Fifth Amendment privilege or
15 whether he would assert it.

16 So, Nicole, we need -- FPD should have a lawyer here.
17 They can have one here at 9:00. You can have him,
18 Mr. Finnigan, here at 9:00?

19 THE DEFENDANT: Okay. Yes. I was going to say he is
20 here. He's the only one of the --

21 THE COURT: So he's here today?

22 THE DEFENDANT: Yes. He's the only one of the group
23 that is, so I don't know what time it is right now, if it's
24 unrealistic to make that happen.

25 THE COURT: All right. See if FPD will do it. See if

1 someone is available either now or 9:00 tomorrow.

2 All right. Thank you. You may have a seat.

3 Mr. Gordon, other issues you want to raise?

4 MR. GORDON: Thank you, Your Honor. I just want to
5 make it clear on Mr. Finnigan, so he's a little differently
6 situated than some other accompaniers that we have had in this
7 situation. I have had this exact same situation happen before.

8 Because we have the text messages that he engaged in,
9 he has a little bit different exposure. It's not just the 1752
10 and the misdemeanors. Not making any commitments, but he has
11 some exposure to a 1512 charge as well, a felony charge. So we
12 should make sure the federal public defender is aware of that,
13 and that is part of their conversation.

14 THE COURT: Okay. Thank you.

15 MR. GORDON: The other issue is that we received on
16 the government's side no kind of reverse Jencks material
17 essentially from any of these witnesses. So time is obviously
18 of the essence, but I would ask the Court to direct the
19 defendant to provide us with all the materials we are now
20 entitled to.

21 THE COURT: All right. So what that means, Mr. Mock,
22 is Jencks refers to prior statements that the witness has made
23 on the events about which he will testify.

24 So, for example, if you are in possession, and you
25 have to be in possession of them, statements by any of these

1 people, prior statements of any of these people, about any of
2 the events they are going to testify about, you need to produce
3 those for the government. All right. Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 MR. GORDON: Your Honor, what I have in mind are any
6 emails, text messages, instant messages, Instagram messages,
7 you know, shared TikTok videos they have commented on, anything
8 where they have discussed with each other the events that are
9 going to be the subject of testimony. It's all fair game.

10 THE COURT: Again, you will, because you have his
11 phone, you have anything prior to the recovery of the phone, so
12 it would be just -- it would just be -- which was on what date
13 again?

14 MR. GORDON: June 11 of 2021.

15 THE COURT: So it would just be from June 11, 2021 to
16 the present. Okay.

17 MR. GORDON: And Your Honor already addressed the
18 issues with defendant eliciting his own hearsay and with
19 Mr. McBride. It sounds like you have already addressed this,
20 but in terms of the summary witness, I was part of the trial
21 with Judge Cooper. That witness was not Mr. McBride. It was a
22 different summary witness, and Judge Cooper very, very tightly
23 constrained what that witness could testify to.

24 THE COURT: All right. What was that witness able to
25 testify to?

1 MR. GORDON: Extremely little. The witness
2 essentially was a vehicle to introduce some video exhibits and
3 say that he had watched them and seen the defendant in them at
4 points A, B, or C. It wasn't really of much moment. The
5 testimony lasted 15 minutes.

6 THE COURT: Okay. And again, you, as I said,
7 Mr. Mock, you can do that through your own testimony, so you
8 may not need to call this witness. Okay?

9 THE DEFENDANT: Okay.

10 MR. GORDON: All right. One second, Your Honor.
11 That's it from the government.

12 THE COURT: All right. So I'm just hanging on for a
13 minute about the FPD question.

14 MR. GORDON: And then, sorry, Your Honor, Mr. Jones
15 has reminded me of one thing.

16 The government seized Mr. Mock's phone and Facebook in
17 their entirety, but as the agent testified to, she then scoped
18 it or she went through and only removed January 6 specific
19 materials.

20 So if there are materials that the witnesses are going
21 to testify to that aren't about January 6 specifically, then we
22 haven't seen those.

23 There's two ways we could deal with that. One of
24 those is we could allow the agent to provide us with completely
25 unscoped returns. I don't know if that's the best way to do

1 it. That's one. The other is to take some sort of overnight
2 break between those witnesses' testimony and our crosses of
3 them because then we could have the agent go through and scope
4 for those issues.

5 THE DEFENDANT: My only question --

6 THE COURT: Hold on. Scheduling is going to make that
7 very tough. I mean, right now, I have a full Friday and a full
8 Monday, and then we are at the judicial conference starting
9 Tuesday. I mean, it's conceivable to break. I really would
10 rather not break until the week of July 3, but I am just
11 telling you I would have very little time Friday and Monday.

12 MR. GORDON: I understand, Your Honor.

13 THE COURT: I think what I would say is the
14 government -- I don't see any reason why the agent can't look
15 at the -- I guess do searches for those individuals; although,
16 again, it would have to be relating to January 6, or it's not
17 going to be relevant testimony.

18 MR. GORDON: Right, Your Honor.

19 THE COURT: Okay.

20 MR. GORDON: Then the last thing I should raise is
21 given that Mr. Mock is now representing himself, it creates
22 some interesting issues for the government in terms of speaking
23 with the attorney for the defendant about things related to the
24 trial.

25 THE COURT: He's the attorney. Any issues, any

1 logistical or other issues, speak to him.

2 MR. GORDON: You got it. Thank you, Your Honor.

3 THE COURT: Thanks.

4 Okay. I'm sorry, Mr. Mock, anything else you were
5 going to say?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: All right. 9:30 tomorrow, folks. And if
8 you will -- Mr. Mock, if you will just remain -- or actually,
9 the government should remain too to see if we've got any news
10 from FPD. So if you will just remain for another 10, 15
11 minutes to see if we can get anywhere with that.

12 Thanks, everybody.

13 (The trial adjourned at 4:44 p.m.)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

8/23/23

s/ Tammy Nestor
Tammy Nestor, RMR, CRR
Official Court Reporter
333 Constitution Avenue NW
Washington, D.C. 20001
tammy_nestor@dcd.uscourts.gov

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