

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	CASE NO. 21-CR-107 (RDM)
	:	
BRUNO JOSEPH CUA,	:	
Defendant.	:	

**OPPOSITION TO DEFENDANT’S EMERGENCY
MOTION FOR PRE-TRIAL RELEASE**

“Unfortunately, they really want Civil War II”

- Public Parler post by @PatriotBruno, December 11, 2020

“Our peaceful protests and sign holding have proven to be completely useless. They turn off the TV’s, close the blinds, and ignore us. When is it time to save our country and our freedom by force? #LIVEFREEORDIE”

- Public Parler post by @PatriotBruno, December 12, 2020

“I think it’s time to mount a .50 cal to the roof of my truck...just in case. #COMEANDTAKEIT”

- Public Parler post by @PatriotBruno, December 13, 2020

“@#GEORGIA@ Our peaceful protests against CORRUPT #briankemp aren’t working. When do we get AGGRESSIVE? Before or after they STEAL our freedom?! WHEN IS IT TIME TO DRAG HIM OUT OF HIS MANSION? IM READY!!! THIS IS OUR #1776 !”

- Public Parler post by @PatriotBruno, December 13, 2020

“@ATTENTION@ PRESIDENT #TRUMP IS CALLING ALL #PATRIOTS TO RALLY IN #WASHINGTONDC JANUARY 6TH!! This is extremely important because this is the day congress will finalize the election! If they dont do what’s right MILLIONS

of us will BREAK DOWN THEIR DOORS! #LIVEFREEORDIE #FREEDOM ECHO THIS POST TO SPREAD THE WORD! #JAN6TH”

- Public Parler post by @PatriotBruno, December 19, 2020

“On JAN 6th congress will open their blinds and see MILLIONS OF ANGRY #PATRIOTS. OPEN CARRY MISSION. If they vote for sleepy joe and commie KAMALA, we BREAK DOWN THEIR DOORS AND TAKE OUR COUNTRY BACK BY FORCE! THIS IS OUR #1776 . #LIVEFREEORDIE”

- Public Parler post by @PatriotBruno, December 19, 2020

“I have lost faith in the court systems, 90% of our government is completely corrupt on both sides, and they’re not going to go away by asking nicely. We the people voted for President Trump and this election will have to be corrected by #WETHEPEOPLE . No court is going to save us at this point, it’s #LIBERTYORDEATH. #January6th Washington DC. I’ll be disappointed if you’re not there. #LIVEFREEORDIE”

- Public Parler post by @PatriotBruno, December 21, 2020

“President Trump is calling us to FIGHT! #DOJ, #SCOTUS, #FBI, His own cabinet, everyone has betrayed him. It’s Trump & #WeThePeople VS the #deepstate and the #CCP. He knows this is the only way to save our great country, show up #January6th. It’s time to take our freedom back the old fashioned way. #Thisisour1776 #LIVEFREEORDIE #FIGHTFORTRUMP”

- Public Parler post by @PatriotBruno, December 26, 2020

“You ever seen the movie #Braveheart? Yeah that needs to be #January6th #LiveFreeOrDie”

- Public Parler post by @PatriotBruno, December 26, 2020

“@IMPORTANT: I hear chatter of DC having “firearm checkpoints”, where they will stop you, search your car (without a warrant) and arrest you for having a gun. Which is an unconstitutional felony in DC. Bring other weapons if you prefer, like pepper spray, tasers, baseball bats, whatever you want.. Although may I remind you that that is EXACTLY what they want from us, to lay down our weapons and be sheep! They know they cannot control us if we are armed and dangerous! I don’t know who needs to hear this, but they can’t arrest all of us. Do not back down and do not be discouraged. Show

up and be ready to fight. This really is our #1776 . Please echo to spread awareness.”

- Public Parler post by @PatriotBruno, January 1, 2021

“The tree of liberty often has to be watered from the blood of tyrants. And the tree is thirsty. The bottom picture is patriots spearing an American Flag into the United States Capital. What happened at the capital was a constitutionally protected right. WE THE PEOPLE have a right to rise up and overthrow a tyrannical government. Violence is never the answer? You denounce violence? Do you denounce the revolutionary war? Do you denounce the “shot heard around the world”? The only reason you’re here today is because of violence against tyranny. This country exists because of violence. I’m not saying it’s always the answer, but it’s a final resort when all else fails and the entire government ignores its people. THEY HEAR US NOW!

- Public Parler post by @PatriotBruno, January 7, 2021

“We have a first amendment to protect our right to peacefully protest. We have a second amendment incase the first one doesn’t work. It didn’t work. Violent protests against the capital (NOT SMALL BUSINESS’S) are well within our constitutional rights. #LiveFreeOrDie #January6th #PresidentTrump #4moreyears #trumpwon #stopthesteal #washingtondc”

- Public Parler post by @PatriotBruno, January 7, 2021

“Dear Swamp Rats,

The events at the capital were a reminder that WE THE PEOPLE are in charge of this country and that you work for us. There will be no “warning shot” next time.

Signed,

#WETHEPEOPLE”

- Public Parler post by @PatriotBruno, January 7, 2021

“We already knew the democrats were swamp rats, but the last two months have clearly proven that the name republicans or democrats means nothing. Everyone who works in congress is a traitor to the people and deserves a public execution. Time for a new party, the patriot party.”

- Public Parler post by @PatriotBruno, January 8, 2021

“Ivanka pointing to my son’s worlds biggest TRUMP flag!
@6519b4b725f64ac58ffe1d7cf2f0e9bd #patriot #fightforfreedom #fightforamerica
#fightfortrump”

- Public Parler post by @AmeriQua tagging @PatriotBruno, December 21, 2020

This small sample of public social media posts on the platform Parler by the defendant in this case evinces a full picture of who this really defendant is: a radicalized man with violent tendencies and no remorse for his participation in the violent insurrection that occurred at the U.S. Capitol on January 6, 2021. That participation was not one of a mere bystander. The video and photographic evidence in this case shows the defendant carrying an asp baton inside the U.S. Capitol, assaulting a law enforcement officer protecting the doors to the Gallery of the Senate, sitting in the chair on the Senate dais where the Vice President had been presiding earlier that day, and using his cellphone to document the papers of the U.S. Senators present that day to certify the electoral college vote for the 2020 Presidential election.

Moreover, the defendant’s parents are hardly appropriate custodians given their own participation in the defendant’s crimes on January 6, 2021. As elicited at the detention hearing in the Northern District of Georgia, the defendant’s parents drove him from Georgia to the insurrection in Washington, D.C., knew he was in possession of a dangerous weapon, went on to the Capitol grounds with him, watched him walk off towards the Capitol building, did not discourage him from climbing the scaffolding set up for the Inauguration, and discussed his illegal activities inside the Capitol once he returned. See Exhibit 1, Hearing Tr. 02.10.21, 53:15- 58:8; Exhibit 2, Hearing Tr. 02.12.21, 26: 3-8. His parents even follow and promote the defendant’s social media from their own Parler account, as noted above. After returning to Georgia from Washington, D.C., the defendant’s parents “realized that...he did something very wrong and he

could be in a lot of trouble,” but did nothing to alert authorities. See Exhibit 2, Hearing Tr. 02.12.21, 15: 2-5. The defendant was ultimately arrested on the criminal complaint in this case on February 5, 2021, almost a month after his parents were fully aware of his illegal activities inside the Capitol, to include his altercation with a plain-clothed member of the Capitol Police. See Exhibit 2, Hearing Tr. 02.12.21, 7: 2-8.

For the reasons fully discussed below, the government respectfully opposes the defendant’s motion for pre-trial release. There is a basis to hold the defendant under 18 U.S.C. 3142(f)(1)(E), (f)(2)(A), and (f)(2)(B), and the factors in 18 U.S.C. 3142(g) favor detention. In support thereof, the government states the following:

I. BACKGROUND

A. Statement of Facts

The United States Capitol, located at First Street, SE, in Washington, D.C., is secured 24 hours-a-day by the U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by the Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol.

On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public and a joint session of the United States Congress convened inside. During the joint session, elected members of the U.S. House of Representatives and the U.S. Senate were meeting in separate Chambers of the Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Vice President Mike Pence was present and presiding in the Senate Chamber.

With the joint session underway, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol

building, and U.S. Capitol Police were present and attempting to keep the crowd away from the building and the proceedings underway inside.

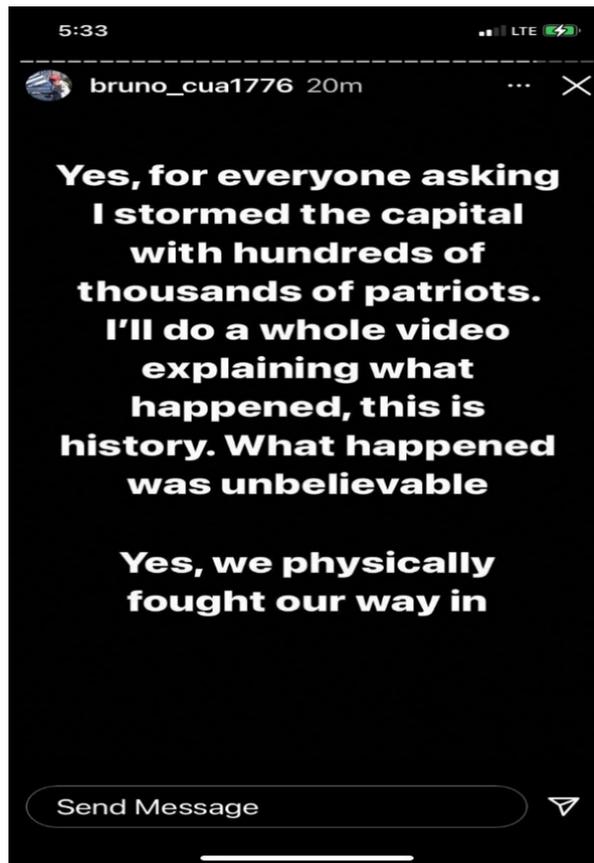
Between 1:00 p.m. and 2:00 p.m., individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and advanced to the exterior façade of the building. They did so while the joint session was still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the U.S. Capitol. However, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows.

Shortly thereafter, members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the Chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

Beginning on or about January 8, 2021, the FBI received at least two tips identifying the defendant, Bruno Joseph Cua, as a participant in the January 6, 2021 riot at the U.S. Capitol. One witness, (“C1”), a sworn Law Enforcement Officer (“LEO”), reported the defendant to the FBI on or about January 11, 2021. C1 identified the defendant in a photograph from a Washington, D.C. Metropolitan Police Department (“MPD”) presentation titled, “PERSONS OF INTEREST IN UNREST-RELATED OFFENSES.” C1 has had direct interactions with the defendant, including in-person, through C1’s official duties as an LEO in the jurisdiction where the defendant lives in Milton, Georgia. After a follow-up telephone interview with an FBI Agent on January 15, 2021,

C1 provided a total of five screenshots/photographs to the FBI, including screenshots of the MPD presentation, and screenshots from the defendant's Instagram account, @bruno_cua1776.¹

In the screenshot of an Instagram story from the defendant's Instagram account, the defendant stated he "stormed" the Capitol and, along with unidentified others, "physically fought our way in." The screenshot was captured at 5:33 PM on January 6, 2021.



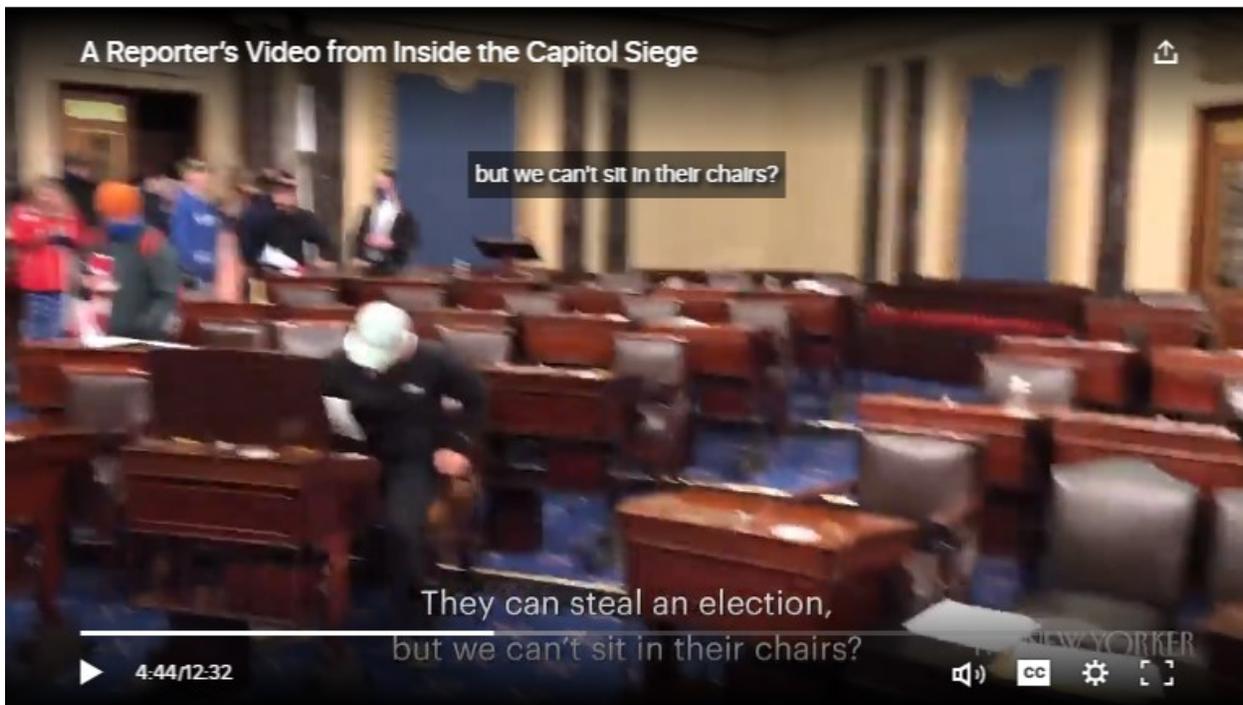
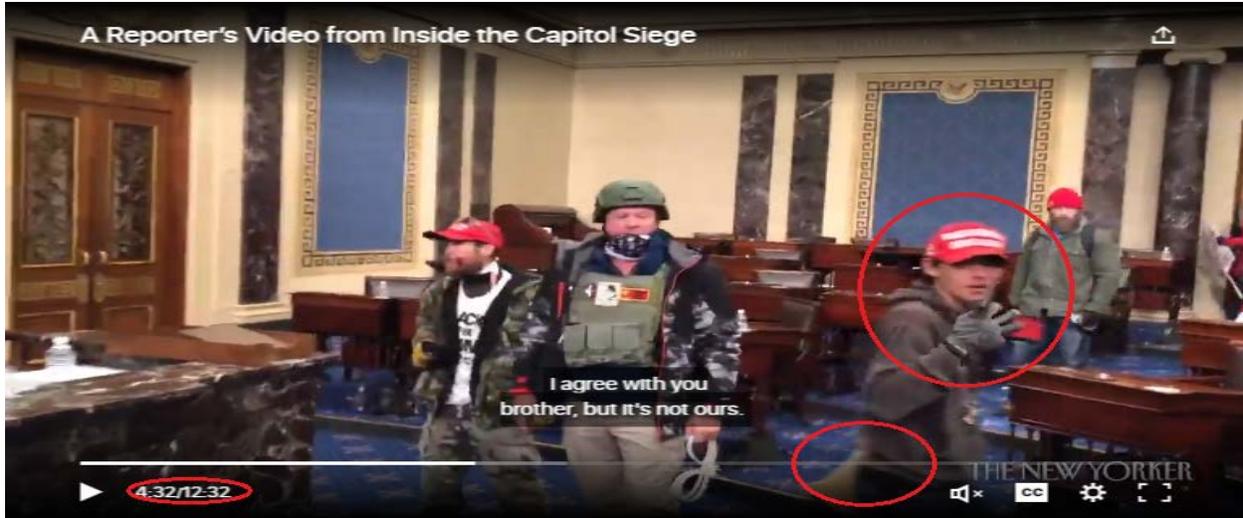
On January 17, 2021, The New Yorker published a video titled, "A Reporter's Video from Inside the Capitol Siege". The video documents individuals as they fought their way inside the U.S. Capitol on January 6, 2021, and shows those who made it all the way to the Senate floor.

¹ Subsequent legal process to Instagram has confirmed this account belongs to the defendant.

The video shows the defendant in the Senate Gallery.² The defendant is seen in front of a marble wall wearing the dark sweatshirt red hat and holding the same jean jacket from screenshots provided by C1. The defendant is also holding a cellular phone and appears to be actively filming. Moments later, the defendant is seen facing the camera, wearing the dark sweatshirt, holding the same jean jacket in his left hand, a red cellular phone in his right hand, while wearing grey gloves. Subsequently, the defendant is heard off camera stating, “They can steal an election, but we can’t sit in their chairs?” In an in-person interview with FBI Agents on January 20, 2021, C1 identified CUA speaking in the video at the same timestamp.



² at a video timestamp of approximately 4:21. At a timestamp of approximately 4:27,





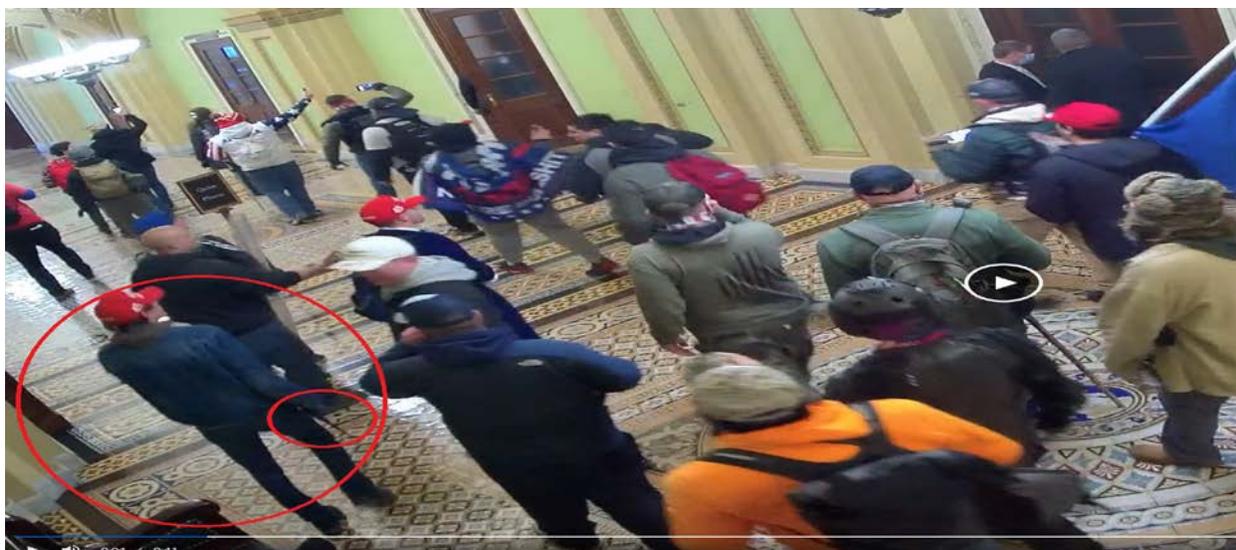
On January 20, 2021, FBI Agents conducted an in-person interview of C1. FBI Agents also interviewed WITNESS #1 (“W1”) and WITNESS #2 (“W2”), both of whom are sworn LEOs. W1 and W2 positively identified CUA based on their direct and indirect interactions with CUA through their official duties as LEOs in the jurisdiction where CUA lives in Milton, Georgia. C1, W1, and W2 each reviewed the video from The New Yorker after its release on January 17, 2021. C1, W1, and W2 each independently identified the defendant as speaking in the video at the same approximate timestamp of 4:44. W1 corroborated the identification of the defendant in screenshots of the defendant provided by C1. W2 also corroborated the identification of the defendant in the same screenshots.



Still shots of the CSPAN footage inside the Senate Chamber on January 6, 2021 additionally show the defendant sitting atop the Senate dais, in the chair previously occupied by former Vice President Mike Pence, with his feet up on a the desk. Other CSPAN footage shows the defendant documenting paperwork from a Senator's desk on his cellphone.



In a separate video captured by U.S. Capitol Police (“USCP”) closed circuit television (“CCTV”) cameras of the events of January 6, 2021, the defendant is seen outside the Senate Gallery. The defendant is seen wearing jeans, with the same previously identified jean jacket, dark sweatshirt, and red hat, while holding what appears to be a baton in his right hand and a cellular phone in his left hand.



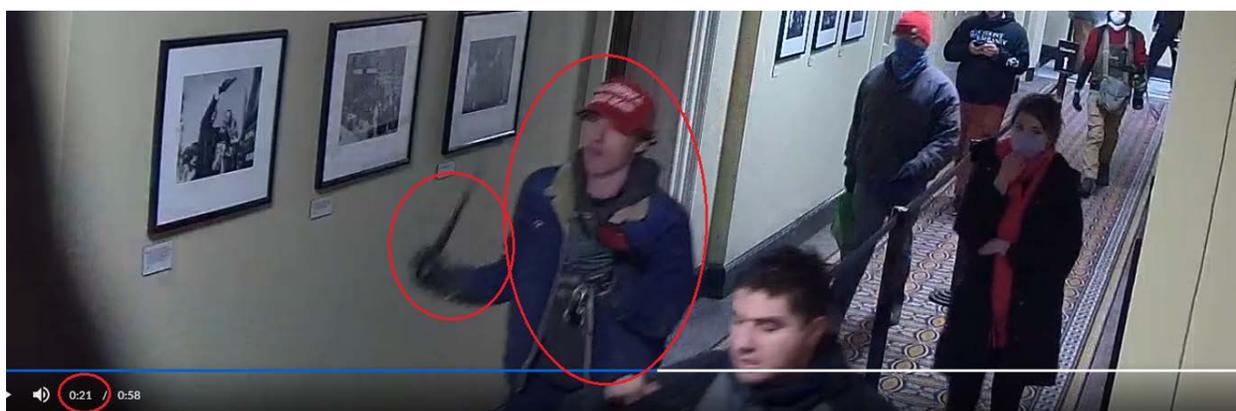
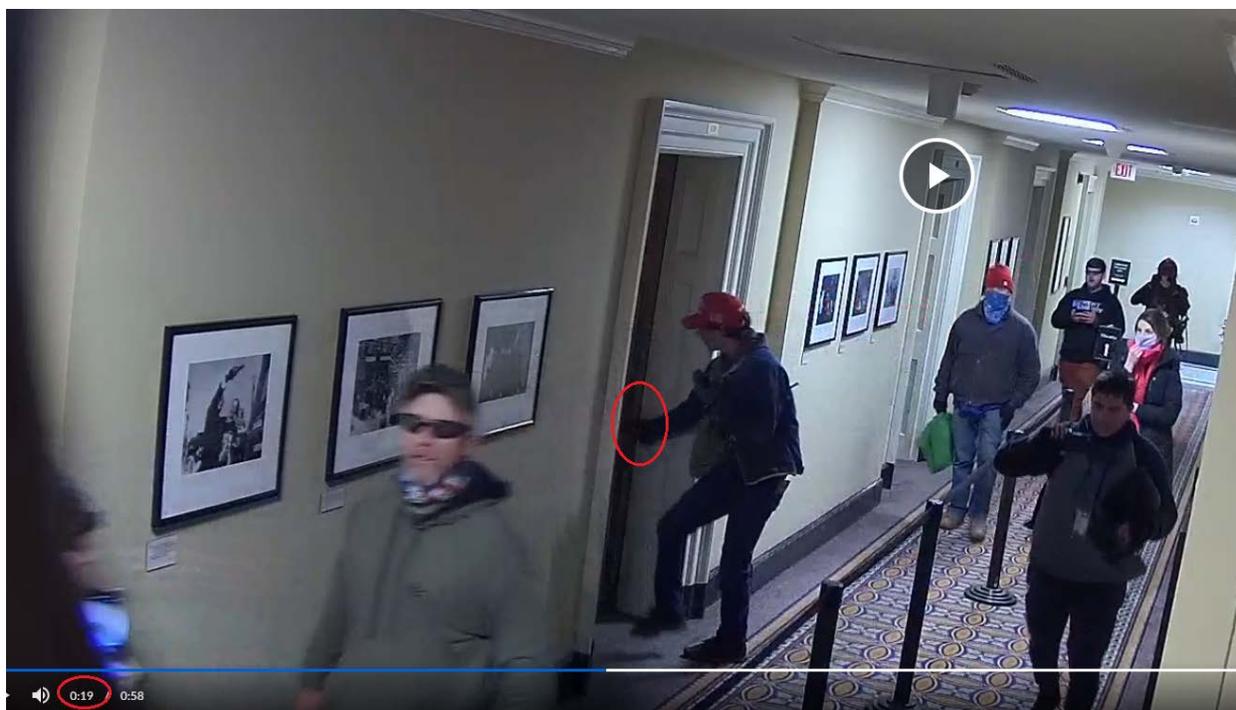
In the same video, the defendant is seen outside the Senate Chamber doors, in a physical altercation with U.S. Capitol Police plain clothes officer, still holding a baton in his hand. Specifically, the defendant can be seen shoving the officer, twice, in front of the door to the Senate Chambers. The defendant is then seen entering the Senate Chambers through the open door.



In another USCP CCTV video from the East Corridor of the Senate wing, the defendant is seen walking down the corridor wearing the same jean jacket, grey gloves, dark sweatshirt, and red hat. The defendant is seen carrying what appears to be a baton in his right hand and a cellular phone in his left hand.



During the same video, the defendant is seen attempting to open a brown door in this hallway. As he continues down the corridor, the defendant is observed wearing the same previously identified attire, including the dark sweatshirt with logo, while twirling a baton in his right hand.



On or about January 8, 2021, the FBI received a tip identifying the defendant's Parler account, @PatriotBruno with name Brunocua, along with posts from the defendant's account.³ In some of the posts, CUA referenced plans to travel to Washington, D.C. on January 6, 2021. As noted above, the government has subsequently received legal process from Parler with content from the @PatriotBruno account leading up to and after the events on January 6, 2021.

³ Subsequent legal process to Parler has confirmed this account belongs to the defendant.

The defendant was arrested pursuant to a criminal complaint on February 5, 2021. During a search of the defendant's vehicle, home and person, law enforcement recovered three black batons, a red hat, a jean jacket like the one seen in the footage from January 6, 2021, and a red Apple iPhone like the one the defendant is seen using inside the Senate chamber.

B. Procedural Posture

A federal grand jury indicted the defendant on February 10, 2021. The indictment charges the defendant with violating 18 U.S.C. § 231(a)(3) (Civil Disorder); 18 U.S.C. § 1512(c)(2), § 2 (Obstruction of an Official Proceeding Aiding and Abetting); 18 U.S.C. § 111(a)(1) (Assaulting, Resisting, or Impeding Certain Officers); 18 U.S.C. § 1752(a)(1) and (b)(1)(A) (Entering and Remaining in a Restricted Building or Grounds with a Deadly or Dangerous Weapon); 18 U.S.C. § 1752(a)(2) and (b)(1)(A) (Disorderly and Disruptive Conduct in a Restricted Building or Grounds with a Deadly or Dangerous Weapon); 18 U.S.C. § 1752(a)(4) and (b)(1)(A) (Engaging in Physical Violence in a Restricted Building or Grounds with a Deadly or Dangerous Weapon); 40 U.S.C. § 5104(e)(2)(A) (Entering and Remaining on the Floor of Congress); 40 U.S.C. § 5104(e)(2)(B) (Entering and Remaining in the Gallery of Congress); 40 U.S.C. § 5104(e)(2)(C) (Entering and Remaining in Certain Rooms in the Capitol Building); 40 U.S.C. § 5104(e)(2)(D) (Disorderly Conduct in a Capitol Building); 40 U.S.C. § 5104(e)(2)(F) (Act of Physical Violence the Capitol Grounds or Buildings); 40 U.S.C. § 5104(e)(2)(G) (Parading, Demonstrating, or Picketing in a Capitol Building).

On February 10, 2021, the government argued for the defendant's detention at a motions hearing before Magistrate Judge Baverman in the Northern District of Georgia. Detention is authorized pursuant to 18 U.S.C. § 1342(f)(1)(E), (f)(2)(A), (f)(2)(B) of the Federal Bail Reform Act. The defense proffered the defendant's parents as adequate custodians for the defendant. After

two days of argument and testimony, including cross examination of the defendant's father Joseph Cua, Magistrate Judge Baverman granted the government's motion. Judge Baverman stated that the defendant's actions were in some ways more serious than the someone who has been arrested a number of times, who engages in violent behavior, assaultive behavior, anti-social behavior, because "what the defendant was involved in was effectively an attempt to overthrow the lawful processes of the United States." Exhibit 2, Hearing Tr. 02.12.21, 46:12-18. Finally, the Court noted that "this is the first time in a number of years in a non-family drug case where the parents were maybe not instigators but aiders and abettors and didn't take steps to stop their child from going off the rails. That's one of the really, really problematic aspects of this case," and "I've rejected custodians far less involved in the criminal conduct of the defendant. *Id.*, 44: 23- 45:3; 45: 11-12. The Magistrate Judge determined that the defendant is a danger, and that there are no conditions or set of conditions that have been proposed that will reasonably assure the safety of the community. Nothing in the defense brief should convince this Court otherwise.

II. ARGUMENT

A. Basis for Review and Legal Standard

The Court may proceed as best enables it to resolve the question posed: whether any condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community? As the legislative history of the 1984 Bail Reform Act amendments shows:

[T]he language referring to the safety of the community refers to the danger that the defendant might engage in criminal activity to the detriment of the community. The committee intends that the concern about safety be given a broader construction than

merely danger of harm involving violence. . . .

See S.Rep. No. 225, 98th Cong., 2d Sess. 307, reprinted in 1984 U.S. Code Cong. & Ad. News 3182, 3195-3196.⁴

Defendant is subject to detention pursuant to 18 U.S.C. § 3142(f)(1)(E) because he possessed a dangerous weapon when he committed his crimes at the Capitol on January 6, 2021. Additionally, the defendant is subject to detention pursuant to 18 U.S.C. § 3142(f)(2)(A) and (B), since he poses a serious risk of flight and a serious risk that he will obstruct justice, due to his indictment on an Obstruction count in violation 18 U.S.C. § 1512(c).

In determining whether the defendant should be detained, the Court must consider the following factors: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's

⁴ To that end, it is worthwhile recalling Congress' intent in 1984 when it enacted the current version of the Bail Reform Act:

Many of the changes in the Bail Reform Act reflect the . . . determination that Federal bail laws must . . . give the courts adequate authority to make release decisions that give appropriate recognition to the danger a person may pose to others if released. . . . The constraints of the Bail Reform Act fail to grant the Courts the authority to impose conditions of release geared toward assuring community safety, or the authority to deny release to those defendants who pose an especially grave risk to the safety of the community. . . . *This broad base of support for giving judges the authority to weigh risks to community safety in pretrial release decisions is a reflection of the deep public concern, which the Committee shares, about the growing problem of crimes committed by persons on release.*

See S.Rep. No. 225, 98th Cong., 2d Sess. 307, reprinted in 1984 U.S. Code Cong. & Ad. News 3182, 3486-3487. (Emphasis added.)

release. See 18 U.S.C. § 3142(g).

Though this Court's review of the detention matter is *de novo*,⁵ the government urges the Court to adopt the findings of the Magistrate Court, who heard the facts presented at the two-day detention hearing in the Northern District of Georgia. In this case, there are no condition or combination of conditions that will reasonably assure the safety of the community if the defendant is released, and the government argues he must be held pending disposition in this matter.

B. The Bail Reform Act factors Strongly Support Incarceration

As the Government argued at the detention hearing, and the Magistrate Judge held, there is no condition or combination of conditions that will reasonably assure the safety of any other person and the community should the defendant be released, nor any assurance that the defendant will not flee from prosecution or obstruct judicial proceedings if released. An analysis of the § 3142(g) factors supports that argument.

1. The Nature and Circumstances of the Offense Charged

A key factor to be considered when assessing the adequacy of release conditions is “the nature and circumstances of the crime charged.” Here, this factor is significant. The crimes charged in the indictment involve active participation in an insurrection attempting to stop the regular functioning of the United States Government. The defendant defied and assaulted law enforcement officers, stormed on to the Senate chamber floor, and stalked the halls of the U.S. Capitol with a dangerous weapon, looking for a fight. This factor strongly favors his detention.

The defense's attempts to minimize the conduct of this defendant by blaming the exhortations of the former President are of no moment here. See Def. Motion for Emergency Release, ECF No. 11,

⁵ See *United States v. Chrestman*, 21-mj-218 (ZMF), ECF No. 23, at 10, n. 5, for review of Court of Appeals decisions uniformly endorsing a *de novo* standard of review.

at 3-5. Chief Judge Howell has already addressed the providence of an estoppel by entrapment defense, noting it is a narrowly tailored defense, available in very limited circumstances, and was not a defense which excused the conduct of a similarly-situated Capitol riot defendant. *Chrestman*, 21-mj-218 (ZMF), ECF No. 23, at 21. The limitations on this defense make it highly unlikely that the defendant will prevail, and should do little to outweigh the evidence currently proffered against him.

Moreover, rather than supply a reason for leniency, this argument that the defendant followed the orders of the former President bolsters the government's argument that the defendant would not obey the rule of law if released. The defendant has said multiple times that he came to Washington, D.C. on January 6th to "fight" for the former President. The defendant's actions in response to any misplaced belief about the 2020 Presidential election cannot be laid at the feet of anyone other than the defendant himself. The fact that the defendant was willing to participate in the actions of a mob which sought to subvert the will of the people in a free and fair election is proof that he cannot be trusted to refrain from violently promoting his political ends in the future. And his willingness now to pass the buck to others when the evidence of his wrongdoing is so strong, evinces with certainty the fact that he cannot be trusted to remain in the community.

Similarly, the defense argument blaming the violent rhetoric of others social media also fails to diminish the seriousness of this defendant's offense. ECF No. 11, at 4. The government has uncovered dozens, if not hundreds, of social media posts and private messages which, in the defendant's own words, display his callous disregard for the underpinnings of our Democracy and the rule of law. What greater insight into the mind of a defendant than his prior and contemporaneous statements about the crimes he was committing? To claim this dangerous rhetoric is the "idle chatter" of a "sheltered and vulnerable teenager" belies the truth behind those messages: we know the defendant meant what he said, because he acted on those messages when he stormed the Capitol on

January 6th with a dangerous weapon as part of an insurrectionist mob.

2. The Weight of the Evidence Against the Defendant

The evidence against the defendant is overwhelming, including photographs and videos of his participating in the offenses alleged, including a video of him shoving a U.S. Capitol Police officer twice before entering the Senate Gallery. The government also has strong evidence of the defendant's intent through his own words on social media. His public posts and private messages not only confirm his illegal activities on the Capitol grounds that day, but affirm his intentions to violently stop those he disagrees with in the future. Therefore, this factor weighs in favor of detention.

3. The History and Characteristics of the Defendant

The offenses committed by the defendant illuminate characteristics inconsistent with a person who could follow orders given by this Court, or indeed, any branch of the federal government. The defendant has espoused disbelief in the outcome of the 2020 Presidential election, and violently acted on that world view. The defendant clearly defied the orders of law enforcement officers who were trying to restore order at the Capitol, and indeed escalated the chaos and danger those members of law enforcement. When faced with the decision whether or not to obey law enforcement, the defendant chose to defy them, and cannot be trusted to follow orders of this Court as a result.

Additionally, the defendant has a strong social media presence, and where he has espoused his fringe, extremist, anti-government views. The defendant cannot be trusted to keep from inciting, contacting or coordinating with other radical extremists, intent on continuing to obstruct the normal functioning of our democracy. Given his participation in the obstruction of the normal functioning of the government, and his disbelief in the legitimacy of the current United States

government, it is unlikely that the defendant will obey any pretrial release conditions.

On top of this, the defendant's parents, his proposed custodians, have long ignored the warning signs that their son was a danger to their community in Georgia, as local police have come to the parent's house "roughly five or six times" to discuss their son's disorderly conduct and criminal activities, but have failed to curtail his behavior. See Exhibit 2, Hearing Tr. 02.12.21 , 9:18- 11:4. As proffered at the hearing in Georgia, many members of the Milton community reached out to the prosecution to ask that the defendant be denied bail, as these citizens felt he posed a danger and his parents did nothing to abate that danger.

The crimes charged in the indictment involve active participation in an insurrection attempting to stop the regular functioning of the United States Government. By the defendant's own admissions on social media, the insurrection is still in progress and he intends to continue participating. His past activities indicate that, should he be released, he would continue in this endeavor. This factor strongly favors detention.

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

Finally, the fourth factor, the nature and seriousness of any danger to the community, strongly favors detention. It bears repeating that the defendant was an active participant in the most violent insurrection to occur at the U.S. Capitol in over 200 years. Specifically, this defendant was part of a group of highly visible rioters, whose illegal activities were caught by national news media and published for the world to see. The defendant forcibly assaulted a police officer attempting to protect the seat of the federal government. Since January 6, the defendant has held himself out on social media as an enthusiastic participant in the insurrection movement, and has professed his intent on social to act in the future as he did at the Capitol on January 6, if not more

violently. He is a danger to the continued operation of the federal government, the law enforcement officers dedicated to protecting that government, and to the community at large.

Finally, the defense proffers the defendant's parents as proper custodians, and claims that arguments "impugn[ing] the character of Mr. Cua's parents" are "largely based on their political beliefs." See Def. Motion, ECF No. 11, at 6. Yet, the defendant's motion fails to address the concerns raised by Judge Baverman that he did not "hear any consequences, zero consequences from the parents of the conduct of their son. Zero. So they are not effective custodians because they're after-the-fact mea culpas ring hollow because they exercised no parental consequences on their child when they realized that their child had engaged in counter-constitutional behavior." See Exhibit 2, Hearing Tr. 02.12.21 , 46:24- 47:4. It would not be a stretch to say these parents could be charged with crimes of their own, not merely for aiding and abetting the activities of their son, but for unlawful entry on the Capitol grounds if in fact, as the defendant's father testified under oath, they were present in the restricted area of the Capitol grounds on January 6, 2021. (A. We were on the grounds, you know, before all the stairs and all the scaffolding like out on the grounds area. Q. Concrete or grass? A. I think it was right at the concrete and grass, right where those -- the grass ended and concrete started. Exhibit 2, Hearing Tr. 02.12.21, 6:3-7)

An analysis of the factors under 18 U.S.C. § 3142(g) demonstrates that the Defendant should remain detained pending trial. As a result, the government respectfully opposes the defendant's emergency motion for pre-trial release.

Respectfully submitted,

MICHAEL SHERWIN
UNITED STATES ATTORNEY

____/s/_____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing opposition to the motion for release has been served upon defense counsel, William Zapf and Jon Jeffress, by email and ECF/PACER notification, on this day, March 2, 2021.

____/s/_____

KIMBERLY L. PASCHALL
Assistant United States Attorney

Exhibit 1

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)
)
)
-VS-) DOCKET NO. 1:21-MJ-129-AJB
) VOLUME 1
BRUNO JOSEPH CUA,)
)
DEFENDANT.)

**TRANSCRIPT OF DETENTION PROCEEDINGS
BEFORE THE HONORABLE ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE
FEBRUARY 10, 2021**

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:
RYAN BUCHANAN, ESQ.
ASSISTANT UNITED STATES ATTORNEY

ON BEHALF OF THE DEFENDANT:
JOHN THOMAS MORGAN, ESQ.
MOLLY PARMER, ESQ.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

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I N D E X

WITNESS:

PAGE:

Joseph Cua

Cross-Examination.....42

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1 THE COURT: Please be seated. All right.

2 So this is the case of The United States of America v.
3 Bruno Joseph Cua. It's 1:21-MJ-129 in this district. And it's --
4 what was the number in the District of Columbia, do you know?

5 (Unintelligible discussion)

6 THE COURT: 1:21-MJ-187. Thank you. In the District of
7 Columbia.

8 Mr. Buchanan is here representing the United States.
9 And Mr. Morgan and Ms. Parmer are here representing Mr. Cua.

10 This is a detention hearing. I guess because the
11 detention hearing is being held today, y'all are still waiving the
12 preliminary hearing?

13 MS. PARMER: Your Honor, at this time we have received
14 some additional information about what I believe will be DC's
15 position regarding appeal. And in light of that, I think we would
16 request to have the prelim and the identity hearing in the
17 charging district rather than waive them entirely.

18 THE COURT: Well, the identity hearing has to happen
19 here.

20 MS. PARMER: Well, then, we'll waive identity and
21 request the preliminary hearing in the charging district rather
22 than waiving it.

23 THE COURT: Okay. So are y'all ready to go forward with
24 the detention hearing?

25 MR. BUCHANAN: Yes, your Honor.

1 THE COURT: You're up first, Mr. Buchanan.

2 MR. BUCHANAN: Your Honor, it may help some
3 scheduling -- it's my understanding that Mr. Cua's been indicted
4 in the District of Columbia. And so that may eliminate the need
5 for a preliminary hearing there. I don't know if that return has
6 been made yet. I think it will be made by the close of business
7 today.

8 So, your Honor, I would like to start with the charges.
9 The United States has filed a motion to detain Mr. Cua while this
10 matter is pending trial based on the danger prong and also based
11 on risk of flight that he poses.

12 Your Honor, as I mentioned a second ago, he's been
13 indicted in the District of Columbia and those charges are
14 different from some of the charges that are in the complaint, so I
15 would like to make the Court aware of those charges. It is a
16 12-count indictment; 6 of these counts are felony offenses.

17 Count 1 charges Mr. Cua with civil disorder in violation
18 of Title 18 of the United States Code, Section 231(a)(3).

19 Count 2 charges him with obstruction of an official
20 proceeding and aiding and abetting in violation of 18 USC,
21 Sections 1512(c)(2)(ii).

22 Count 3 charges Mr. Cua with assaulting, resisting or
23 impeding certain officers, that's related to a US Capitol police
24 officer with the initials GL, in violation of Title 18 of the
25 United States Code, Section 111(a)(1).

1 Count 4 charges Mr. Cua with entering and remaining in
2 a restricted building or on grounds with a deadly or dangerous
3 weapon in violation of Title 18 of the United States Code,
4 Section 1752(a) (1) and (b) (1) (A).

5 Count 5 charges Mr. Cua with disorderly and disruptive
6 conduct in a restricted building or grounds, violation of Title 18
7 of the United States Code, Section 1752(a) (2) and (b) (1) (A).

8 Count 6 charges Mr. Cua with engaging in physical
9 violence in a restricted building or grounds, violation of Title
10 18 of the United States Code, Section 1752.

11 Count 7 through 12 are misdemeanors.

12 Count 7 charges Mr. Cua with entering and remaining on
13 the floor of Congress in violation of Title 40 of the United
14 States Code, Section 5104.

15 Count 8 charges Mr. Cua with entering and remaining in
16 the gallery of Congress. It's violation of Title 40 USC, 5104.

17 Count 9 charges him with entering and remaining in
18 certain rooms in the Capitol Building in violation of Title 40,
19 United States Code, Section 5104.

20 Ten charges Mr. Cua with disorderly conduct in the
21 Capitol Building, violation of 40 USC, 5104.

22 Eleven charges with Mr. Cua with an act of physical
23 violence on the Capitol grounds or buildings in violation of 40
24 USC, 5104.

25 And Count 12 charges Mr. Cua with parading,

1 demonstrating or picketing in a Capitol Building in violation of
2 40 USC, Section 5104.

3 So, your Honor, I know that when we presented the
4 complaint and the Court discussed the complaint with Mr. Cua
5 earlier this week, the Court noted that a couple of those offenses
6 were felony offenses and a couple of those offenses were
7 misdemeanor offenses, and I think there was even a petty offense
8 in there. I wanted to update the Court on the status of the
9 current charges.

10 Your Honor, the Court works through the facts or the
11 factors that the Court considers in 18 USC, 3142. As we work
12 through those, I will highlight some of the evidence that Mr. Cua
13 is facing and highlight some of the evidence I believe has arisen
14 that shows he's both a danger to the community and a flight risk
15 and he should be detained.

16 We certainly understand that Mr. Cua is an 18-year-old
17 young man who does not have extensive criminal history, but he has
18 escalated very, very quickly and in a very, very dangerous and
19 troubling manner.

20 The first prong that the Court examines in a 3142
21 analysis is the nature and circumstances of the offense. Your
22 Honor, I don't believe that I can overstate the seriousness and
23 the nature of this offense. As we speak right now, in the very
24 room where Mr. Cua stood, the United States Senate is
25 contemplating impeaching the former President of the United States

1 based on what happened that day.

2 Mr. Cua and several hundred other people charged the
3 United States Capitol while the Senate was in session, while the
4 Congress was in session. The Congress members had to be
5 evacuated. The Court is likely aware seven people as a result of
6 those -- of that incident have lost their lives. One hundred and
7 forty law enforcement members received injuries that day. The FBI
8 and the Department of Justice has engaged in sort of a national
9 effort to locate and apprehend those who were responsible for the
10 breach of the United States Capitol.

11 Many of these folks who have been arrested have posted
12 themselves on social media. There are extensive security,
13 surveillance cameras at the US Capitol. Part of the investigation
14 sort of started with a review of those cameras and then the
15 publication of those pictures to ascertain whether or not there
16 were those in the community who recognized the people pictured
17 inside the Capitol.

18 And that's how we got to Mr. Cua. His picture was
19 posted. And, your Honor, I have 15 or 16 exhibits that I've
20 shared with Ms. Parmer. I've sent them electronically to Ms. Enix
21 in case the Court --

22 THE COURT: I've seen them.

23 MR. BUCHANAN: And I would move for the admission of
24 those into evidence for the purpose of this hearing.

25 THE COURT: Any objection?

1 MR. MORGAN: No objection.

2 THE COURT: They're admitted. What number are those, 1
3 through 17?

4 MR. BUCHANAN: 16, your Honor.

5 Government's Exhibit 1 shows a snapshot of the picture
6 that was publicized in the wake of the incident, the riot at the
7 Capitol. Mr. Cua is pictured in the gray sweatshirt and the red
8 hat.

9 Government's Exhibit 2 shows Mr. Cua in the chamber of
10 the United States Senate.

11 Your Honor, I should also add that some of these videos
12 were captured by media. There is not a lack of video evidence and
13 surveillance that the agents to this hour are still pouring
14 through to understand everyone who was involved in this.

15 Mr. Cua in Government's Exhibit 2 in the Capitol in the
16 Senate chamber.

17 Government's Exhibit 3 is Mr. Cua in the chamber.

18 Government's Exhibit 4, Mr. Cua in the chamber while
19 there's discussion, someone asked, where the fuck is Nancy, in
20 reference to the Speaker of the House.

21 Government's Exhibit 5, Mr. Cua using his cell phone to
22 record someone else who was in the chamber.

23 Government's Exhibit 6, your Honor, shows -- I mean, it
24 almost looks like people on tour of the US Capitol, but these are
25 all folks who have breached security and have unlawfully entered

1 the United States Capitol. You'll see Mr. Cua to the left, again
2 in the red hat, a circle and inside that circle is a smaller
3 circle of an object which the agents have determined is a baton,
4 which gives rise to the charge for entering with a dangerous
5 weapon. Agents subsequently searched Mr. Cua's home and found two
6 similar batons to this.

7 Government's Exhibit 7, Mr. Cua on the Senate chamber.

8 Government's Exhibits 8, 9 and 10 show the incidence
9 that gives rise to the assault charge. In that circle to the
10 right you'll see Mr. Cua in the red hat. And these are
11 individuals who are involved essentially in a shoving match with a
12 US Capitol police officer with the initials GL. Agents have
13 identified this officer and have spoken with him. And you'll see
14 he's -- this officer at this time is being confronted by
15 approximately six or eight people, including Mr. Cua, as he
16 attempts to guard this particular door inside the United States
17 Capitol.

18 THE COURT: Let me ask you a question because these are
19 time stamped as 7, 8 and 9. 8, 9 and 10.

20 MR. BUCHANAN: Uh-huh (affirmative).

21 THE COURT: Are these photos stills before or after the
22 government contends Mr. Cua was on the floor of the House or the
23 Senate, if you know?

24 MR. BUCHANAN: I am not certain, your Honor. And if
25 we're going chronologically, of course, correct, 9 should be in

1 front of 8 chronologically. And then, I believe, your Honor, that
2 Government's Exhibit's 10 is a tighter look at Government's 9.

3 I think that the Court's question is whether or not they
4 pushed past this Capitol police officer onto the -- into the
5 Senate chamber. I'm not certain.

6 I am certain, however, your Honor, that that Senate
7 chamber is absolutely off limits and it's unlawful for anyone to
8 have gotten there no matter how they got there, whether or not
9 they snuck in the door, walked in an open door or pushed past a US
10 Capitol police officer.

11 Your Honor, the second prong of the Court's
12 consideration under 3142, the weight of the evidence against the
13 defendant, we believe that this -- the weight of the evidence here
14 is strong. It shows Mr. Cua on video multiple times at multiple
15 places that he should not have been during this siege on the
16 United States Capitol.

17 And in addition to the video, your Honor, his words back
18 it up. Government's Exhibit 11, he posted: Yes, for everyone
19 asking I stormed the Capitol with hundreds of thousands of
20 Patriots. I'll do a whole video explaining what happened. This
21 is history. What happened was unbelievable.

22 And he acknowledges the assault and says: Yes, we
23 physically fought our way in.

24 So, your Honor, I believe those first two prongs of the
25 Court's analysis under 3142 favor detention for Mr. Cua.

1 Government's Exhibit 12, your Honor, after Mr. Cua's
2 arrest and the FBI all over the country had received hundreds of
3 thousands of leads and tips regarding people who potentially may
4 have been at the Capitol that day, Government's Exhibit 12 shows
5 Mr. Cua's truck on a street in Washington, DC, prior to the siege
6 of the Capitol and blocks away from the US Capitol.

7 A citizen noticed a truck that's not normally on this
8 person's street, and so this person started taking pictures of the
9 truck. Mr. Cua's truck has a distinctive attachment in the bed of
10 the truck that he uses to fly large flags. I'll discuss that in a
11 bit momentarily. That's Government's Exhibit 12.

12 Government's Exhibit 13, his name, essentially his
13 Instagram handle, is displayed in the back of that truck.

14 Government's 14, this person captured the tailgate -- I
15 mean the license plate of the truck which confirms it's registered
16 to Mr. Cua's father.

17 Government's 15, your Honor, is a picture of Mr. Cua and
18 two individuals outside of his truck. It's the government's
19 position, your Honor, I believe the pictures sort of speak for
20 themselves, these are Mr. Cua's parents. They were in Washington
21 with him. And I raise that because I believe that they have
22 volunteered to be custodians. And it's the United States's
23 position that they are not suitable custodians in part because
24 they may have participated in some of this activity as well.

25 I will say to the Court in full candor, as of this

1 moment right now I do not have evidence that they were inside
2 the Capitol like Mr. Cua was. Agents are continuing to look, to
3 ascertain that and conduct other analysis and investigation. But
4 this is too close for a custodian, your Honor. And I'm happy to
5 argue that later on as we move through the hearing.

6 So, your Honor, in addition to the video evidence that
7 shows that Mr. Cua was, in fact, in the Capitol that day, his
8 words confirm that he was both in the Capitol that day and, you
9 know, that he physically fought his way into the Capitol that day.
10 We have -- we argue and note in our detention motion that he is a
11 danger to the community and should be detained.

12 And, your Honor, a review of Mr. Cua's social media
13 information supports the government's argument that he should be
14 detained. And this doesn't just start -- it's not just
15 information that was -- that was posted about or in conjunction
16 with the siege on the Capitol, but it started before then and it's
17 gone on since. I believe some of this information also relates to
18 Mr. Cua's propensity for flight. I shared these excerpts with
19 Ms. Parmer and Mr. Morgan as well, your Honor.

20 Days after the election, November 9th of 2012 (sic), all
21 this material the FBI received pursuant to a federal search
22 warrant for his Instagram handle. Mr. Cua says in a direct
23 message to someone else: I'm trying to find an AR to buy under
24 the table, know anybody?

25 This person initially laughs and then gives Mr. Cua two

1 suggestions.

2 Mr. Cua responds, first thing it says is: You've got to
3 be 21, but you've got to be 18 to buy a rifle.

4 And he says: So oh, oh, oh, oh, oh.

5 Later in December a relevant conversation picks up on
6 December 13th. Mr. Cua says to another: I think there's going to
7 be a war. Could be a civil war or World War III.

8 He goes on to say: This is how wars start, tensions
9 build.

10 On December 14th, Mr. Cua says -- someone says to
11 Mr. Cua: Don't worry much over there in Georgia. California's
12 going to be the battleground. That's why they have troops in
13 Las Vegas. Wish us luck.

14 To which Mr. Cua responds: I don't want to sit here in
15 Georgia and watch. I want to fight.

16 On December 22nd -- this is a critical point, your
17 Honor. December 22nd Mr. Cua is in a conversation with someone
18 who says: You going on the 6th?

19 Someone else says: I don't know, it's a Wednesday and I
20 have to work.

21 To which Mr. Cua responds: Yeah, but this could
22 possibly be one of the most important days in American history.

23 To which someone says in response: You think it's going
24 to change anything? There's going to be a civil war regardless.

25 Mr. Cua says: Yeah, I do, because we can storm the

1 fricken Senate or House.

2 It's December 22nd, he has foretold exactly what he did
3 later on.

4 He says: That's what I've been saying. That's why I
5 keep saying to bring guns. Holding signs is useless.

6 December 30th, 2020, someone says: Keep up the good
7 work, Dude, we'll get this election overturned soon.

8 Mr. Cua responds: Appreciate it. Will do. And we
9 don't have anything to overturn, we won. Just have to take back
10 what's ours.

11 Earlier message on December 22nd, a little bit earlier,
12 someone says: Show up January 6th. Keep your head up. This is a
13 time to persevere.

14 Mr. Cua responds: I wouldn't miss it.

15 So, your Honor, both before and after, as we get sort of
16 closer to the date, to January 6th, Mr. Cua's social media
17 continues to show his danger.

18 January 5th, the day before it happened, someone says --
19 another person says: What? And they arrested the leader of the
20 Proud Boys the moment he touched down in DC.

21 Mr. Cua responds: Yeah, it's unbelievable.

22 The next day, January 6th, the date of the siege,
23 someone asked Mr. Cua: Are you at the Capitol? This is insane.

24 He says: Yes.

25 He goes on to say: We made them wish they were in hell.

1 Later on someone -- there's a discussion, someone asked
2 whether or not it's true, Antifa or BLM, which I believe is a
3 reference to Black Lives Matter, started it.

4 To which Mr. Cua responded: No.

5 This person goes on to ask: So did they try to blend in
6 with supporters? Damn. Everyone is saying we're the domestic
7 terrorists now.

8 Mr. Cua says: Say what they want. We didn't attack the
9 American people, we attacked the swamp rats.

10 Later on the 6th another Instagram user says: As much
11 as I'm furious about this election and we should stand up for what
12 we believe in, violence is never the answer to anything. But you
13 are right in that this helped our voices be heard, I just think
14 there was better ways to go about it.

15 To which Mr. Cua responds: How? Did we ask for freedom
16 in 1776? Did we hold signs?

17 The person responds: We stopped them from possibly
18 changing the result in Congress. It's only going to delay it.

19 Mr. Cua responds: If we don't fight now, we won't get a
20 chance. It's not (sic) or never, which I imagine is a typo.

21 The person responds to Mr. Cua: Even the President is
22 speaking against it. People died, Dude.

23 Mr. Cua responds: One person was shot by police.

24 Also on the 6th Mr. Cua says: Not really speaking
25 against it.

1 He's talking to someone named Matt.

2 Matt, if you want to keep positing on your Instagram
3 story until the swamp rats listen, go ahead, but I'm going to
4 fight like our founding father's did. Peaceful protests didn't
5 work.

6 The day after the person says to Mr. Cua: TBH, to be
7 honest, cops should have joined in.

8 Mr. Cua said: That's what I fricken told them.

9 They later say: We are literally fighting for them.

10 Mr. Cua said: One cop was about to cry.

11 He goes on to say: We were screaming at them to join
12 us.

13 January 8th Mr. Cua said: Trump or not, our fight
14 against the government is far from over. I would lay down my life
15 for him, but I'm going to keep fighting.

16 January 9th, a person says to Mr. Cua: I want a civil
17 war at this point.

18 And then they go on to say: Oh, wait, probably
19 shouldn't say that, they are probably looking at our direct
20 messages.

21 And this person says: Never mind. I don't care if
22 you're looking at this, you liberal bastard. Fuck you.

23 Mr. Cua says: IDC, I don't care, either. I want a
24 bloody war. I'm ready to start shooting and I'm ready to die
25 before I watch America crash and burn.

1 Mr. Cua goes on to say: I'll be on the front lines.

2 And then he says: I want to lock the swamp rat tyrant
3 in the Capitol and burn the place to the ground.

4 The day before, on January 8th, Mr. Cua says: Just so
5 you know, I'm not meaning to sound rude, hard to have tones over
6 text, never, ever. So do you condemn the Revolutionary War? Do
7 you disagree with the Second Amendment? This country was founded
8 because of political violence. They overthrow the tyrannical
9 government and won their freedom. Without violence you wouldn't
10 be in this great country. I hope it will become clear to you
11 what's at stake. Socialism under Biden administration would drive
12 this country into the ground. But let's agree to disagree. No
13 hard feelings. Goodnight. Hopefully we will see you guys soon.
14 It's been awhile with everything going on.

15 January 6th Mr. Cua says to another individual: I will.
16 Don't want anything in writing right now. Need to let stuff
17 simmer down.

18 January 6th, someone says to Mr. Cua: You're amazing.

19 They go on to say: I'm glad you did. I wish I could be
20 there with y'all.

21 Mr. Cua responds: We fought like hell, Brother.

22 Backing up just a couple of days, your Honor, and it's
23 important to my earlier point, January 4th someone says: I hope
24 you and your family are going, Bruno. Be loud for us who can't
25 make it.

1 Mr. Cua responds: Yes, my parents and I are going.

2 Which then lastly, your Honor, on January 10th, someone
3 says: A war.

4 Mr. Cua says: This is how wars happen.

5 The person says: Between?

6 Mr. Cua responds: The people and the government. Maybe
7 we have to fight the liberals, too, I don't know.

8 And he concludes: The Capitol was the beginning of the
9 revolution I think.

10 So, your Honor, we don't have a situation where a young
11 man was fired up at a rally and did something on impulse. We have
12 a pattern here, a pattern of escalating danger. He's trying to
13 buy a gun discretely in November. As early as December 22nd he's
14 already talking about storming the Capitol. All around
15 January 4th and 5th he's talking about going to DC. There's talk
16 of political violence. January 6th he acknowledges exactly what
17 he did. And then in the days after that he both brags about what
18 he did, and he hints toward there being more, which is why we're
19 moving to detain him because this shows a propensity for danger.
20 His parents' involvement shows that they are incapable of being
21 his custodian.

22 There have been a couple of instances, your Honor, in
23 the community where I've noted -- I mentioned that Mr. Cua does
24 not have extensive criminal history, but he has had interactions
25 with law enforcement that I believe can be instructive in the

1 Court's consideration of the government's detention motion.

2 Back in December, Mr. Cua received a violation for
3 violating an ordinance in the City of Milton, two of them.

4 There's one in December, and there's one in January. The one in
5 January is a mere days before the Capitol siege. January Mr. Cua
6 essentially entered a residential area in which he should not have
7 been without permission. He was then stopped by the homeowners --
8 I think a security guard who called the Milton Police. And then
9 the Milton Police subsequently reviewed security footage and then
10 went to the Cuas to speak with Mr. Cua.

11 So they did that. And then in that instance they
12 encountered his parents. So here's an incident in December where
13 he's had an interaction with law enforcement but the unlawful
14 behavior didn't stop. He wound up getting in December cited for
15 criminal trespass.

16 In January, January 3rd of this year, Mr. Cua, as I
17 mentioned earlier, and the Court's seen the back of his truck,
18 there's a huge flag. He has been known in the Milton area to
19 drive his truck and it requires a high rate of speed to kind of
20 get the flag up in the air. So in doing so, he was near a school.
21 An employee at the school called the police because that employee
22 was concerned about the speed in which he was driving around. He
23 was also blaring an air horn. Mr. Cua's father subsequently was
24 there as well. So here's a January situation where he's still
25 with his parents, still a law enforcement encounter, but it's

1 still leading up to this subsequent trip to Washington and these
2 six alleged felony offenses that he's been indicted for.

3 In that encounter the teacher who called the Milton
4 Police, days after that Mr. Cua posted a screen grab of her
5 Facebook page. And so, your Honor, that's why we have noted that
6 Mr. Cua has in this instance exemplified a propensity to bother
7 witnesses who have been involved with him. And, again, it shows
8 that he will sort of go after the people who are in charge or who
9 sort of raise issues related to your conduct.

10 Again, his parents were around, nothing stopped it.
11 Again, I believe that this shows -- your Honor, it's not a felony
12 conviction, but it does give us an indication of Mr. Cua's
13 inability to follow instructions by law enforcement. And I would
14 argue that coupling this with the information that he's posted,
15 the evidence that the Court has seen, that he is not a candidate
16 for bond.

17 Your Honor, Ms. Parmer provided me with some e-mails,
18 some character references from people in the community. And in
19 the very rare occurrence, your Honor, I have received letters
20 myself. I've passed those to Ms. Parmer and to Ms. Enix. And
21 there's a theme -- there's six or eight or so of these letters.
22 And there's a theme here. The theme is that Mr. Cua is someone
23 who has been described in this, he conducts himself in a reckless
24 manner in the community. Mr. Cua has been terrorizing and
25 harassing our neighborhood for years and he frightens us.

1 There's evidence here again that's consistent with some
2 of the political rhetoric that Mr. Cua has exhibited in his social
3 media information.

4 I'm writing, he is a resident near me and has terrorized
5 this area before with his truck and his very scary social media
6 posts.

7 There's a letter from the teacher who also -- who,
8 again, reported that Mr. Cua, after she called the police on him,
9 she says that he encouraged his social media followers to harass
10 her and her family.

11 There are a couple of instances where Mr. Cua -- this
12 person writes: My SUV has campaign bumper stickers on it. On at
13 least two occasions I've had the unfortunate experience of being
14 tailgated by Mr. Cua in his truck with his flag flying. He would
15 at first tailgate me dangerously close, honking and flashing his
16 lights. And then he would aggressively pass me and get in front
17 of my car.

18 Another person wrote about a similar instance where
19 Mr. Cua and some others who were conducting a truck calvary
20 spotted this vehicle, they blared their horns and yelled at him
21 with a bullhorn. Mr. Cua then filmed this incident, posted the
22 video, which showed this person's license plate number on
23 Mr. Cua's YouTube channel.

24 Your Honor, these are things that have been obviously
25 going on throughout the past several months up in Milton, Georgia.

1 And given the weight of the evidence against Mr. Cua, the lack of
2 suitable custodians, in particular the danger that he has already
3 posed, the danger he posed and the violence he enacted upon the
4 Capitol on January 6th, and the danger that he has talked about,
5 he talked about in December of 2020, he said we can storm the
6 Capitol. On January 6th, he stormed the Capitol. And after that,
7 in January 9th and 10th, he has said this is just the beginning.

8 Your Honor, Mr. Cua is a danger to the community.

9 There's not a condition -- a set of conditions that would
10 reasonably assure the safety of the community or his appearance
11 and, therefore, he needs to be detained while this matter is
12 pending trial in the District of Columbia.

13 THE COURT: Mr. Morgan.

14 MR. MORGAN: Thank you, your Honor. J. Tom Morgan and
15 Ms. Molly Parmer on behalf of Mr. Cua, your Honor.

16 Our argument will go this way, Judge. I will address
17 the background while we're here today, and Ms. Parmer, being the
18 brighter of the two attorneys, will address the technicalities,
19 Judge.

20 Again, your Honor, your decision is to decide whether or
21 not Bruno Cua is a danger to the community and should not be
22 released on bail or whether or not he is a flight risk. They are
23 not going apparently under the third prong, which is whether or
24 not he would intimidate any witnesses.

25 To give you a little bit of background, Judge, Bruno is

1 18 years old. As the Court knows, he is just barely an adult
2 under federal law. If these acts had occurred last year, we
3 wouldn't even be in this court.

4 Bruno --

5 THE COURT: We would be but the door would be closed.

6 MR. MORGAN: Yeah. He wouldn't be facing the charges as
7 they are, Judge.

8 The -- Bruno grew up here. He was born in Decatur. He
9 spent his first four years there, and then his parents moved to
10 Milton. He has lived with his parents for his entire life.

11 Mr. and Ms. Cua, who is now at issue apparently
12 according to Mr. Buchanan, they grew up -- well, Mr. Buchanan
13 (sic) is from Ohio, he played football for Ohio State.

14 Dr. Buchanan is a veterinarian. She no longer --

15 THE COURT: Dr. Cua.

16 MR. MORGAN: I'm sorry. Dr. Cua is a veterinarian.
17 They met in college. They moved down here. She gave up her
18 practice to stay at home and raise her three children.

19 Bruno has two other siblings, a 17-year-old and a
20 13-year-old. He is scheduled to graduate from high school this
21 year. He lacks three classes in having done so.

22 Judge, Bruno lives in a bubble. He is homeschooled.
23 You have -- we have already submitted to you the letters from the
24 community, 48 letters, including a former FBI agent who has spoke
25 to his good character, that they're not afraid of him in the

1 community, Judge.

2 The -- Mr. Buchanan keeps talking about his lack of an
3 extensive criminal history. I'm going, how about his lack of
4 criminal history period? He's got a ticket for honking a horn.
5 And if all these encounters with the police or that the neighbors
6 are talking about, we would see something about a criminal
7 history, Judge.

8 This young man is coming before you, 18 years old. As
9 pointed out in pretrial services, no alcohol use, no drug use.
10 Like I said, the thing he has done, what he is guilty of is going
11 around Milton with a Trump flag, which has irritated some people
12 on the other side. They have these two factions going.

13 The letters that we were just served, Judge, about five
14 minutes before this hearing from these anonymous sources in Milton
15 that we don't know who they are, all in the same type, all in the
16 same font, all in the same -- it just doesn't amount to anything.

17 There is a teacher who heard him honking his horn,
18 driving his truck with the Trump flag, which she is on the other
19 side of the political spectrum, and that's what has caused this
20 friction. There is nothing that would show that he would be a
21 danger whatsoever to the community.

22 Judge, on that day there -- we don't dispute, Bruno went
23 inside the Capitol. Mr. Buchanan talks about the deadly weapon.
24 The deadly weapon is a baton. There is no doubt it belongs to
25 Bruno. There is no evidence he used that baton because he didn't

1 use the baton. Bruno was scared when he got in there.

2 THE COURT: Tell me about this baton.

3 MR. MORGAN: It's an ASP baton, Judge. It is one that
4 you carry on your belt. Police use it. A lot of people have them
5 for self-defense. I don't carry one, but that's what it is.

6 THE COURT: You said a --

7 MR. MORGAN: I call it an ASP baton, it can be extended.
8 That is the presumption that I -- when I've looked at the
9 pictures, that's what I presume it is.

10 THE COURT: What's it made out of?

11 MR. MORGAN: The ones I've seen are made out of
12 aluminum.

13 Again, while that -- depending on -- you know, if it was
14 used defensively in a manner to cause death or serious bodily
15 injury, yes, it would be a dangerous weapon but there's no -- as I
16 said, as the Court is aware, we have a Georgian who was trampled
17 to death up there. It was a violent scene. And I can understand
18 why an 18-year-old certainly is scared. There is no evidence that
19 he used it against anyone.

20 We have never seen --

21 THE COURT: Of course, for him to say he was scared, I
22 mean, he wasn't supposed to be where he wasn't supposed to be.

23 MR. MORGAN: There is no question, we do not dispute
24 that, that he and a lot of other people weren't where they should
25 be. That is not the issue before the Court however. The issue is

1 whether or not he is a danger to the community.

2 Mr. Buchanan does cite in the indictment, like I said,
3 which we have not seen, is that he pushed and shoved a police
4 officer. And that is a felony in some respect. It certainly
5 sounds like it's a misdemeanor, but they've indicted as a felony.
6 It's not that he struck the officer with this ASP baton.

7 Mr. Buchanan, by his own statement, says there were six or seven
8 people who were pushing these officers.

9 Judge, you can look at our client, he's 140 pounds. He
10 can't shove his way out of a paper bag. The fact that they are
11 saying that he is somehow a danger to the community because of
12 this pushing of this officer, we're not here to argue the facts.
13 What we are here is to discuss whether or not he is a danger to
14 the community.

15 Judge, you and I have been around this block a lot, and
16 we have seen dangers to the community. This is not a kid who is a
17 danger to anyone. The rhetoric that Mr. Buchanan read up here,
18 99 percent of it is protected by our First Amendment. It's the
19 same rhetoric that was going around our country. I can vehemently
20 disagree with it, but I will fight to the death for the person's
21 right to say it, just as the Friends of Voltaire said.

22 An 18-year-old kid who was using social media bravado.
23 My gosh, all the kids that I've represented, I wish they would
24 stay off social media, but, again, what he is saying does not in
25 any way -- you know, I've heard about we've got to go fight for

1 our country, yes, they're arguing right now in the US Senate what
2 those words mean, what do the words, you know, "fight" mean.

3 Again, Judge, the -- of all the young men and young
4 women that we've seen that say that this kid is a danger in social
5 media when he talks about buying an AR, there's no evidence he
6 did. I will say that he and his father both hunt, but we've
7 instructed the parents that if the Court should release him to the
8 custody of his parents, which is what we are hoping the Court will
9 do, is that any and all firearms have to be taken -- and including
10 ammunition, has to be taken out of the home.

11 Judge, and that brings us to the parents and to the
12 flight risk. The parents are here today and they're here to
13 answer any questions, any questions at all that you may have,
14 Judge, because we're asking that you release Bruno back to the
15 custody of his home and to his parents.

16 The parents have engaged before January 6th with their
17 son in peaceful protests and peaceful demonstrations. And, again,
18 whether I agree or disagree with what they're protesting, they
19 have every right to do so, and they have every right to take their
20 son with them, who is 18 years old and is now a voter. Somehow
21 we're -- you're accusing this kid of being a bad person or the
22 parents because they took their son to DC. Mr. Buchanan cannot
23 (unintelligible) because there is absolutely no evidence that the
24 parents in any form or fashion participated in what went on at the
25 Capitol.

1 What happened that day, Judge, is that they went up
2 there to peacefully protest as they had done several times before
3 as a family. They were not meeting any group. In fact, if there
4 was any evidence that Bruno or his parents were meeting up with
5 the Proud Boys or whoever they were, there's absolutely none of
6 that because that wasn't it.

7 THE COURT: How did they get separated from their son?

8 MR. MORGAN: There is the speech by the President,
9 Judge. And everybody, thousands of people are walking back to the
10 Capitol. Somehow at some point they got separated from their son.
11 They didn't even know he went into the Capitol until after this
12 was over with.

13 And they did not go up there to go into the Capitol.
14 The parents did not go up there to go into the Capitol. I'm sure
15 the parents were as surprised as anyone that their son had made it
16 into a mob. Now, how he got into the mob, how this, you know,
17 transpired into the Capitol, it was not preplanned, it was not
18 preordained, and the parents had absolutely nothing to do with it,
19 other than the fact -- I mean, somehow -- and I saw that the
20 pretrial has said that he -- the parents were somehow complicit.
21 That is not a legal term that I'm familiar with. If they're
22 complicit because they took their son to a protest -- I have taken
23 my children to protests, I have protested with my children, I have
24 paid for my students to go protest. If something had gone wrong
25 during those protests, I certainly wouldn't be, quote, complicit.

1 The parents are here and they are prepared to answer any questions
2 that the Court may have.

3 This is a kid who needs to go home. He is not a danger
4 to the community. He is certainly not a flight risk. I will
5 bring this out, I thought this might come up in that pretrial
6 services said they have been to Romania. Mrs. Cua,
7 Dr. Cua, when she was ten years old, she and her family escaped
8 Romania and came here for asylum under the communist regime.
9 Dr. Cua and Mr. Cua support an orphanage in Romania and they went
10 back there. Of course, we will be glad to give --

11 THE COURT: This is not a flight risk.

12 MR. MORGAN: Okay. Thank you, Judge. Now, I'm just
13 trying to make sure no stone goes unturned because --

14 THE COURT: I understand.

15 MR. MORGAN: -- they were arguing that he was somehow a
16 flight risk. But, Judge, he's also not a danger to the community.
17 And at this point I would ask -- allow Ms. Parmer to come up with
18 the technicalities of this.

19 THE COURT: Thank you.

20 MS. PARMER: Thank you, your Honor.

21 As we've referenced, we've submitted in advance of this
22 hearing close to 50 pages of character letters.

23 THE COURT: I've read all of them.

24 MS. PARMER: And if you would allow, your Honor, I would
25 like to simply share a few words that I've selected from those

1 letters that describe my client.

2 Exceptional. Well-rounded. Good morals. Solid
3 parental environment. Admirable. Authentic. Smart. Respectful.
4 Outstanding. Incredible heart. Entrepreneurial spirit. Role
5 model. Passionate. Brave. Heart of gold. Driven. Loving. A
6 handyman. An outdoorsman. An inspiration. Wonderful. Not
7 violent. Not destructive. Kind. Respectful. Courageous.
8 Reliable. Personable. Intelligent. Up right. Mature beyond his
9 years. Unmatched work ethic. Creative. Polite. Honest.
10 Extremely faithful and Godly. A spirit of pure excellence. He
11 doesn't go to parties. He has never smoked a cigarette, used a
12 vape or drank a sip of alcohol or tried any drug. He has tithed
13 over \$436 through weekly giving to his church last year. He
14 encourages everyone around him to be the best they can be. He is
15 very respectful of adults and of law enforcement. He would be
16 someone you would be proud to have as a son, son-in-law or friend.
17 He is the type to nurse an injured baby squirrel back to health.
18 He treats others, like a young girl with cerebral palsy and a
19 young man in a wheelchair, with kindness and respect. And he has
20 a reputation for speaking up against bullies. And all of that
21 comes directly, quotations directly from the 50 pages of character
22 letters that we have sent to the Court and opposing counsel.

23 Also, as we briefly discussed, I want to emphasize and
24 make perfectly clear he has absolutely no affiliation with any
25 right-wing extremist group, malitias, Proud Boys, Oath Keepers or

1 any such organization.

2 I know in the screen shot referenced by the government
3 there was the quote, where the F is Nancy. He did not say that.
4 That is closed-captioned generated from that piece of
5 closed-circuit television.

6 Also the screen shots in the complaint, your Honor, show
7 him in terms of social media sharing the President's Tweets. I
8 know that we've also touched on his other social media, his
9 Instagram, direct messages, but I do believe that Instagram
10 rhetoric is just that, an 18-year-old on social media goaded by
11 others, including politicians, is doing a lot of posturing, is
12 engaging in puffery, and social media is not reality, particularly
13 when you are 18 years old.

14 I did receive a letter very late, your Honor, that was
15 referenced by Mr. Morgan, and this is from a former FBI special
16 agent and military veteran who has spent ten years in the FBI
17 investigating criminal and espionage acts against the United
18 States.

19 And he says: I do not know Bruno to be violent,
20 criminal in nature or racist, or any of the other
21 characterizations I've read in the media over the past week.
22 In my opinion his interactions with law enforcement have been
23 overblown. As a teenager, he was overly targeted by a few
24 neighbors with complaints about his youthful behavior in the
25 neighborhood. I've interacted in the past with community law

1 enforcement officers regarding Bruno's and other neighborhood
2 children's, quote, unquote, run-ins with law enforcement and find
3 these instances to be over-hyped in relation to their portrayal
4 that this behavior is symptomatic to these recent actions.

5 And he has no criminal history, your Honor. I do think
6 it's important to note that when he got the citation, it wasn't
7 for speeding, it wasn't for reckless conduct, it was a municipal
8 code violation, a noise ordinance for honking a horn. He went to
9 go pay that ticket with his father last Friday. He was told to go
10 to the police station to pay it. He went there. He was arrested
11 by the FBI, and his father then paid the ticket after his son was
12 taken into custody. He respects law enforcement and he was raised
13 by his parents to do so.

14 And I do think, your Honor, the fact that he has his
15 parents and the fact he's 18 is very relevant to your
16 determination today. What happened here when he was separated and
17 inside of the Capitol surrounded by people who were not his
18 parents I think is very differently analyzed as conduct than it
19 would be for somebody whose older. We know that research shows
20 when you are young, when you're 18, particularly males, the
21 prefrontal cortex isn't even developed and it's not developed
22 until you're 25, which is 7 years older than my client. And
23 you're dealing with somebody who's mental state is very prone to
24 susceptibility and influence.

25 But beyond all of that, your Honor, and I think this is

1 very relevant as well to today's legal determination, I need to
2 address whether this case is even eligible for the danger basis.
3 The government has submitted a motion citing 3156 and saying that
4 our client is a danger because he is charged with a crime of
5 violence, which is a term of art. Now, I haven't seen this
6 indictment, it hasn't been provided to me, but I believe they're
7 going under 111(a)(1), which is what he's charged with as a crime
8 of violence. That's the only one that conceivably fits. And if
9 so, they don't have a basis to go that route.

10 We do know there's many *Johnson* cases, your Honor, that
11 deal with this type of analysis, but specifically *Johnson* 399 F3d
12 1297, the 2005 *Johnson*. We do know that the categorical approach
13 applies to the detention hearing analysis of 3156 when we use the
14 phrase "crime of violence." And here we have my client charged
15 with 111(a)(1), no use of a deadly weapon, distinct and different
16 from 111(b).

17 And we have a ruling from our controlling circuit, which
18 is in agreement with every other circuit that has analyzed this
19 issue, that case is *United States v. Bates*, 960 F3d 1278. It's
20 from the Eleventh Circuit, 2020. And *Bates* held that it's the
21 use, not the possession but the use of a deadly weapon under
22 111(b) that transforms 111(a) into a, quote, unquote, "crime of
23 violence." If it is transformed, 111(a) is not a crime of
24 violence; and, therefore, the government has no basis to say that
25 my client is charged with a crime of violence because he is not.

1 I don't think any of the other felonies that were just
2 rattled off, I don't again have a copy of this indictment, are
3 applicable under the definitions in 18 USC, 3156. I also will say
4 for the record that I believe part B is unconstitutionally vague
5 and unlawful after the other *Johnson, Dimaya* and *Davis*. So, your
6 Honor, if you believe he's not a flight risk, I don't believe the
7 government can say that he is a danger. However, I do want to
8 address a few other things in turn.

9 I agree with your Honor that he's not a flight risk.
10 He's 18 years old. He has no money. I did prepare an exhibit,
11 your Honor, of him at the Romanian orphanage to show that that is
12 his one history of travel.

13 He's not a serious risk of obstruction or intimidation.
14 I have given you many descriptions of my client, how respectful he
15 is. I have described the moment when his son was arrested,
16 Mr. Joseph Cua, that he proceeded to pay the citation. That's my
17 client's only interaction -- or criminal conviction, municipal
18 code violation.

19 I also think that this is very situational. And we can
20 craft so many conditions, your Honor. Even if you find that he is
21 a risk of intimidating witnesses, it sounds as though the
22 government's theory is that he shared -- and I haven't seen this
23 again -- he shared a teacher's photo on social media. Well, we
24 can limit his social media, it's no problem. We have a multitude
25 of conditions that this Court can craft and place upon my client

1 that will prevent any sort of obstruction or intimidation.

2 I will also say that I typically see that invoked in
3 cases where you have undercover informants, you have cooperating
4 co-defendants, you have an inevitable trial. I think this case,
5 the idea that my client is going to intimidate a juror or a
6 prospective witness, I'm not even sure who those witnesses are.
7 But, again, your Honor, we can craft conditions in the event you
8 even find that he is a serious risk, and that's what the statute
9 says. Not just a risk, he must be a serious risk, which he is
10 not.

11 He does have just the three classes left, your Honor.
12 He is in high school. He could be on home detention, ankle
13 monitoring. He could be -- the parents I believe would even put
14 up their house they are so confident, that they would risk losing
15 their house they are so confident their son will abide by whatever
16 conditions this Court will set.

17 But what I also think is very important is to bring to
18 your attention a series of cases both in this district and in the
19 District of Columbia that are similar and the bond determination
20 has been made and the Court said we are going to release these
21 individuals.

22 The first one from our district, 1:20-MJ-943, *United*
23 *States v. Richard Hunsinger*. This is a case, felony assault, so
24 not the 111(a)(1), it's the 111(b), and arson at the rally against
25 fascism. The facts are that this individual is alleged to have

1 thrown Molotov cocktails into the Department of Homeland Security
2 immigration field office. He got a bond secured by \$10,000 with
3 conditions.

4 2:20-CR-23, *United States v. Jesse James Smallwood*.

5 This is conspiracy and arson for setting a police car on fire
6 during the George Floyd protests, signature bond and conditions.

7 1:20-CR-452, *United States v. Vida Messiah Jones*, seven
8 incidences of vandalism and fire, including setting fire to a post
9 office and a police vehicle and throwing bricks with notes that
10 say "Proud Boys stand by," and "Stop the Faithless Elector."
11 \$25,000 signature bond, co-signed by his mother with conditions.

12 And just yesterday, 2:21-MJ-3, *US v. Benjamin Torre*. He
13 has Capitol offenses that he is going to DC to face and the
14 government did not move for detention.

15 In DC we have cases with similar conduct that was
16 handled as this one is in the district of arrest. 1:21-MJ-76,
17 *United States v. Chad Jones*. That is an assault on a federal
18 officer, violent entry, disorderly conduct and a civil disorder
19 felony, \$100,000 surety bond with conditions, ordered by the
20 Western District of Kentucky.

21 1:21-CR-5 (sic), *United States v. Mark Leffingwell*, also
22 an assault of a federal officer, violent entry and disorderly
23 conduct, release on pretrial conditions.

24 1:21-MJ-106, *United States v. Barton Shively*, assault on
25 a federal officer, civil disorder, physical violence on Capitol

1 grounds, released on a bond with conditions out of the Middle
2 District of Pennsylvania.

3 1:21-MJ-81, *United States v. Cody Connell*, assault on a
4 federal officer, civil disorder, violent entry, disorderly
5 conduct, \$30,000 signature bond with conditions, Western District
6 of Louisiana.

7 And I do believe that my client is the youngest of, I
8 believe, the 100 or 200-plus people who have been arrested for
9 their conduct, he is the youngest and that must factor into the
10 analysis here. He has no criminal convictions but a citation that
11 his father paid after witnessing his son arrested by the FBI.

12 And I can tell you, your Honor, I met him this weekend
13 and I've spent many hours with him, and I agree with those
14 50 pages, that he is responsible and respectful and that this is
15 an isolated situational incident. I've gotten to know his
16 parents. And I do believe his father would like to speak to you
17 as well today. And as we said, they will answer any and all
18 questions.

19 But I also believe firmly that if you follow the law,
20 3142 mandates his release in this case, and that the least
21 restrictive conditions are the ones that -- pretrial services,
22 those that will supervise my client in the event that he's
23 released, they have said give him a bond, and they have proposed
24 conditions that we are asking you to impose in this case. It
25 comports with the law.

1 He's not a danger. And even if you don't buy my danger
2 argument that I believe is correct, there are still conditions
3 that you can put on him that will assure his return to court, and
4 that he will not be a danger to anybody in the community.

5 And I believe at this time, Mr. Cua, if you would like
6 to say a few things to the judge. If you would hear from him,
7 your Honor.

8 THE COURT: He needs to be sworn.

9 MS. PARMER: Sure.

10 (Witness duly sworn)

11

12 _____
JOSEPH CUA

13 a witness herein, being first duly sworn,

14 was examined and testified as follows:

15

16 _____
COURTROOM DEPUTY CLERK: Please have a seat. If you
17 could please state and spell your name for the record.

18 THE WITNESS: My name is Joseph Cua.

19 THE COURT: You need to speak into the microphone,

20 Mr. Cua.

21 THE WITNESS: My name is Joseph Cua. Name is spelled

22 J-O-S-E-P-H. I'm Bruno's father.

23 MS. PARMER: Your Honor, I'm just going to have him read
24 what he prepared and speak and then you can answer the judge's
25 questions.

1 THE COURT: Mr. Buchanan.

2 MR. BUCHANAN: Out of an abundance of caution, I think
3 he may need to be admonished of his rights.

4 THE COURT: Mr. Cua, let me advise you that you don't
5 have to make a statement. You don't have to subject yourself to
6 cross-examination, which you are by sitting on the witness stand.
7 And so I'm advising you that you have an absolute right to remain
8 silent; that anything you say can and will be used against you in
9 further proceedings, if necessary, and in this proceeding, if
10 necessary. Once you start testifying, you're subject to
11 cross-examination. And since you've been placed under oath, you
12 are subject to the rule against making false statements of
13 perjury.

14 You have the right to consult with an independent lawyer
15 prior to testifying in this matter, if need be. The Court will
16 appoint a lawyer to speak with you or consult with you prior to
17 the time that you testify. Do you understand that?

18 THE WITNESS: Yes, your Honor.

19 THE COURT: Do you want to consult with a lawyer?

20 THE WITNESS: No. I'm okay to proceed.

21 THE COURT: Do you understand what I've told you?

22 THE WITNESS: Yes, sir.

23 Okay. Your Honor, looking back at this situation I
24 feel, you know, embarrassed, that I feel many of us, my son, my
25 wife and I, many Americans were misled by so-called leaders on the

1 right. There were tremendous rhetoric and many false promises
2 made, which never materialized. And, you know, had we had any
3 idea that things were going to spiral out of control that day, I
4 would have made sure my son was never in that situation.

5 I feel a tremendous regret that -- you know, that this
6 young, impressionable boy was -- you know, I allowed to be put in
7 that situation. I don't agree with violence in any way, whether
8 it's online or in person.

9 You know, as the news reports have painted him in a
10 negative light, Ms. Parmer has stated that we've gotten nearly 50
11 letters of support and many other things that aren't shown here
12 from the community, many people putting signs in their yards
13 saying that they love Bruno and that they're with us, what can
14 they do, helping us, bringing food. So I know there's a side
15 that's trying to portray him as this, you know, dangerous
16 individual, but these are nothing more than neighbors that might
17 be a bit spiteful.

18 He -- it's already been shown that he tithes ten percent
19 of everything he makes to the church. We have letters from the
20 church board members that can attest to that.

21 And I can also attest to his respect for law enforcement
22 despite what's been portrayed, because he has coordinated with
23 Alpharetta and Milton Police forces during these rallies where
24 they have their trucks that drive through intersections, they're
25 coordinated with them so that they make sure that traffic is

1 handled and no one is put in danger. And we have folks that can
2 speak to that as well.

3 And during these rallies, not only do they have the
4 political flags and American flags, but there's many back to blue
5 flags that are on there. And his social media, you can see many
6 pictures and videos of those back to blue flags. When the FBI
7 searched our home, they probably noticed that in his room there
8 were two back to blue flags that were hanging still in his room.

9 The -- in your request today I want you to know that he
10 would be remanded to the custody of his mother and me. We've been
11 married for over 20 years and have a safe and stable home
12 environment. We have a daughter 17 and a son 13. And I was
13 with -- as Ms. Parmer said, with Bruno when we arrived at the City
14 of Milton to pay the noise violation ticket on the exact date and
15 time when we were supposed to be there.

16 After we walked in, he was arrested without any
17 incident. After the shock of that experience I sat at the
18 courthouse for some time, after which I got up and proceeded to
19 the window and paid the ticket. I think this speaks that we will
20 show up at the proper date and time to handle the rest of this.

21 I would put my home on the line if that were required in
22 order to secure his bond, that is how confident I am that he would
23 never violate a single condition of his release.

24 In just the last few days he has been profoundly
25 affected by these events. I've never seen a more contrite,

1 reflective, prayerful young man. He is very eager to address and
2 rectify all the charges against him. This is an isolated moment
3 in his life and not reflective of who he really is.

4 I appreciate the Court taking these words into
5 consideration.

6 THE COURT: Cross-examination, Mr. Buchanan.

7 CROSS-EXAMINATION

8 BY MR. BUCHANAN:

9 Q. A few questions for you, Mr. Cua.

10 Are you familiar with -- or you were present earlier when
11 your -- I mentioned your son received a violation up and around
12 the school. Do you remember that?

13 A. Yes.

14 Q. Tell the Court what happened that day.

15 A. Well, there was an open parking lot. And as you said, he has
16 to get up a little bit of speed in order to let this bigger flag
17 fly. And he had discussed with another Milton police officer
18 about another location, if he could fly it on the school parking
19 lot. And we -- you know, we -- he said, you know, if it's -- we
20 said kind of after 4:00, 5:00, the parking lot was empty,
21 everybody was gone, you should be okay.

22 So --

23 Q. I'm sorry to interrupt, you're saying he had permission to do
24 that with the Milton PD?

25 A. Well, we talked to another Milton officer, and it was like

1 make sure the parking lot is empty. I don't have his name in
2 front of me but I do have it, where he said just make sure it's
3 empty. And so this is -- we waited until about 5:00 that day and
4 the school was empty. And there was -- except for on the other
5 side of the -- which was about, I don't know, 150 yards away there
6 were one or two cars, which were the teachers that were still
7 there.

8 I was there with my wife. The kids that were there were my
9 son and my son's friend. And he was just making a circle right
10 there in front of us, trying to test out the pole and the flag to
11 make sure it was -- it would stand up.

12 **Q.** Approximately how fast was he going?

13 **A.** I don't know, 15, maybe 10, 15 miles an hour. It didn't take
14 that much to get the flag up but...

15 **Q.** And Mrs. Cua was -- Dr. Cua was present as well?

16 **A.** Yes.

17 **Q.** And your other children were present as well?

18 **A.** Just my son, my young son.

19 **Q.** And eventually the police showed up, correct?

20 **A.** Correct.

21 **Q.** And what happened when the police showed up?

22 **A.** They gave us a ticket for honking his horn, for a noise
23 violation.

24 **Q.** You didn't mention noise. So there was noise as well?

25 **A.** That's what the citation was for, for honking his horn.

1 Q. Do you remember him honking the horn?

2 A. Yes.

3 Q. And you're aware or you've since learned that that violates a
4 Milton ordinance?

5 A. I understand there's -- you know, I haven't read the
6 ordinance. I understand there's interpretation of the ordinance
7 for like noise to be a sustained time period and a certain decibel
8 level. I don't know if that honking horn met those levels of
9 sustainment or decibels, but we don't really argue that fact, we
10 just --

11 Q. But you don't sound like you believed what your son did that
12 day was wrong?

13 MS. PARMER: Objection, your Honor. I don't think it's
14 relevant. And also he paid the ticket, he admitted fault and paid
15 the ticket. So I'm going to object as to relevance at this time.

16 THE COURT: Overruled.

17 Q. You can answer.

18 A. Can you repeat the question.

19 Q. The question was whether or not you believe what your son did
20 was wrong and deserving of an ordinance?

21 A. The officer, you know, gave us a ticket, and she felt we
22 violated the other ordinance. So, you know, we violated the
23 ordinance, so we went to pay the ticket.

24 Q. Yes or no, did he violate -- did he do something wrong or not?

25 A. Yes.

1 Q. He did?

2 A. Yes.

3 Q. Okay. And you were there and you were present?

4 A. Yes.

5 Q. But there seems to be some difficulty with acknowledging that
6 what your son did was wrong with respect to this ordinance
7 violation?

8 A. It was wrong.

9 Q. Now, this was not the only time that he received a noise
10 ordinance, is it?

11 A. I think he received a warning.

12 Q. Another time?

13 A. Yeah, but I wasn't present.

14 Q. You were not present for that, but he has received an
15 ordinance -- a separate ordinance --

16 A. No, I think it was just a verbal.

17 Q. He received a verbal warning related to a noise ordinance
18 prior to this December --

19 A. Correct.

20 Q. And you were aware of that one, though, correct?

21 A. Yeah. He told me, yes.

22 Q. And then later, in January of this year, a day or so before
23 you guys went to Washington, your son received a citation for
24 trespassing?

25 A. Yeah, I think it's -- I don't think it was a citation, it was

1 a warning of trespassing.

2 **Q.** Tell the Court about what happened there.

3 **A.** He was going to the neighborhood next door, which he has many
4 friends there and they go fishing in the ponds there. So they
5 went to the neighborhood again, and the security guard said they
6 couldn't enter unless they had, you know, someone that they knew
7 in there. He's like, yeah, we have many friends and listed the
8 names and said we're going fishing. And he said, well, you can't.

9 Also they were in a golf cart and they said, well, you can't
10 take the golf cart in here because it's a no golf cart. He was
11 like but they've done it for many years and they go fishing. He
12 says I don't know what had changed. So he had, you know, caught
13 the fence and hopped back over.

14 **Q.** When you mean "he," you mean your son?

15 **A.** Yes, and that was the trespassing. He then hopped the fence
16 and hopped back over. And then they finally, you know, said,
17 fine, and then they left. So that's what the -- what the
18 trespassing was.

19 **Q.** Just so I'm crystal clear about it in very simple terms, he
20 was told not to do something, correct?

21 **A.** Correct.

22 **Q.** He did it anyway, correct?

23 **A.** Correct.

24 **Q.** And then later the police came to your residence and had a
25 conversation with you, correct?

1 **A.** Correct.

2 **Q.** And how did that conversation go?

3 **A.** Well, I mean, he gave us the -- he gave us the warning for
4 trespassing.

5 **Q.** The police gave you a warning. Did he show you the video of
6 your son?

7 **A.** Yes.

8 **Q.** Again, was this something wrong that your son had done?

9 **A.** He showed me the video and I was like, yeah, you shouldn't
10 have done that. So we --

11 **Q.** Did he have to show you the video?

12 **A.** He offered to show it.

13 **Q.** Did you ask the police officer or advise him that your son
14 wouldn't be talking to them unless he was charged with something?

15 **A.** I don't recall that.

16 **Q.** If the police officer put it in his report, would you have any
17 reason to dispute that?

18 **A.** Probably not.

19 **Q.** So you're aware that your son violated an ordinance or got a
20 verbal warning in roughly October or so of 2020?

21 **A.** I don't recall when it was.

22 **Q.** Within a year of December?

23 **A.** I suppose.

24 **Q.** Any reason to dispute it was within a year?

25 **A.** No.

1 Q. Okay. So there's that warning. You're aware of it.

2 December 8th there's the noise issue?

3 A. Uh-huh (affirmative).

4 Q. You're present for it?

5 A. Right.

6 Q. January 3rd there is the trespassing, you're -- you discussed
7 that with the police, correct?

8 A. Correct.

9 Q. Police came to your house, correct?

10 A. Correct.

11 Q. And, sir, when did y'all leave for Washington?

12 A. On the 5th.

13 Q. Now, you mentioned -- I'm going to come back to this, but you
14 mentioned earlier that there was -- y'all noted that this is
15 somehow a neighborly dispute, the neighbors are spiteful. Do you
16 have any reason to believe -- and I don't want to talk about any
17 neighborhood issues so much as these incidents with the police.
18 Are these the product of neighborhood spite, or are these the
19 product of your son's behavior?

20 A. There's just -- the only incidents like were, you know, people
21 would complain about four-wheelers on the -- we live in a country
22 area, agricultural zone, and it's a gravel road that we live on,
23 people have animals, farm animals. So there's -- many people on
24 the road have four-wheelers, ATVs. And, you know, we've lived
25 there for 14 years, it wasn't a problem until like a year or two

1 ago. The neighbors moved in and they didn't like the noise of the
2 four-wheelers, so they would call the police. And you're not
3 allowed to drive an ATV on a road. So that's what the nature of
4 sort of the disputes came in.

5 And, you know, so the police would come, they would just tell
6 us, hey -- it mostly was warnings, just -- you guys just be
7 careful, make sure you wear your helmet. But there's discussion
8 of whether it's a farm implement or a farm vehicle in an
9 agricultural zone, so we had discussions around that.

10 **Q.** Okay. So there were --

11 **A.** But there were no like citations or disorderly conducts or --
12 you know, it was mostly just discussions.

13 **Q.** So with respect to the ordinance, you drew a distinction about
14 the sustained noise, correct? You said that a few seconds ago,
15 right?

16 **A.** You mean the noise?

17 **Q.** Yes.

18 **A.** Correct.

19 **Q.** And then with respect to the four-wheeler, the ATV, you drew a
20 distinction with respect to whether or not it's a farm implement,
21 correct?

22 **A.** Correct.

23 **Q.** So how many times have the police been called or sent to your
24 residence related to your son?

25 **A.** I don't know exactly.

1 Q. Ballpark it for me.

2 A. I'm not sure.

3 Q. More than three?

4 A. Maybe.

5 Q. More than five?

6 A. I don't -- I'm not sure.

7 Q. More than seven?

8 A. I'm not sure. I don't think -- certainly not that many times.

9 I don't know.

10 Q. Not more than seven?

11 A. I don't really know.

12 Q. Four? Give me an approximate. You said there's been
13 discussions?

14 A. Yeah.

15 Q. Approximately how many?

16 A. They might not come to my house, though. Sometimes it's on
17 the road, they drive by and --

18 Q. We'll carve that out as well.

19 How many interactions has your son had with the police to your
20 knowledge?

21 A. I don't know.

22 Q. More than ten?

23 A. Maybe. I don't know. Maybe less.

24 Q. More than eight?

25 A. Probably not.

1 Q. Seven?

2 A. I don't know, sir. I don't know what the number is.

3 Q. I'm just asking for --

4 A. I don't --

5 MS. PARMER: Objection. He's badgering the witness.

6 Asked and answered.

7 THE COURT: Move on, Mr. Buchanan.

8 Q. These incidents when he's interacting with law enforcement are
9 in addition to these issues where he's gotten citations that I've
10 already discussed, correct?

11 A. Right.

12 Q. And for this entire period your son lived with you and
13 Dr. Cua, correct?

14 A. Correct.

15 Q. And so if we -- we roughly say five with respect to the ATV
16 and these three that we've mentioned related to a verbal warning
17 and two citations, none of those things have deterred your son
18 from the activity or deterred him from the activity that led to
19 his being indicted, correct?

20 A. I don't know if that's -- I don't know what you mean by that.

21 Q. January 5th you headed up to Washington, correct?

22 A. Correct.

23 Q. Who went with you?

24 A. My wife and I and my son.

25 Q. How did y'all travel?

1 **A.** We drove up in the truck.

2 **Q.** I show you what's been admitted into evidence as Government's
3 Exhibit 16. Take a look at that, sir. Is that you, your wife and
4 your son?

5 **A.** Yes.

6 **Q.** And is this January 6th, 2021?

7 **A.** Yes.

8 **Q.** And this is after the three of you drove up to Washington, DC,
9 in your son's truck?

10 **A.** Yes.

11 **Q.** And this is before the President's speech, correct?

12 **A.** Correct.

13 **Q.** And so y'all are walking from that parked truck a few blocks
14 away to the speech?

15 **A.** Uh-huh (affirmative).

16 **Q.** Yes?

17 **A.** Yes.

18 **Q.** And you got there and you listened to the speech, correct?

19 **A.** Correct.

20 **Q.** And what happened at the conclusion of the speech?

21 **A.** You know, we -- we walked over to -- you know, towards the
22 Capitol after the speech was over.

23 **Q.** Who is "we"?

24 **A.** My wife and I and my son.

25 **Q.** And then what did you do after you walked toward the Capitol?

1 **A.** You know, I didn't think that we were going to be going into
2 the case, I thought this was just about the -- you know, the
3 security of my home for the bond hearing.

4 **THE COURT:** Answer the question.

5 **THE WITNESS:** Oh, okay.

6 **A.** We walked over to the Capitol and we were in front of the
7 Capitol.

8 **Q.** And how long were you in front of the Capitol?

9 **A.** I don't know. You know, maybe 45 minutes or so. I'm not sure
10 exactly.

11 **Q.** So 45 minutes after the speech you were in front of the
12 Capitol?

13 **A.** No. I mean, it took maybe 15 minutes to walk over and then we
14 were outside there for awhile.

15 **Q.** While you were outside of the Capitol, people were breaching
16 the Capitol?

17 **A.** You know, we could see from a distance that -- well, we didn't
18 know they were breaching the Capitol. We were out front, we could
19 see that things were getting, you know, a little bit rough kind of
20 up close to the Capitol.

21 **Q.** Near the Capitol there was violence going on?

22 **A.** It looked like it, yeah.

23 **Q.** And you were standing with your wife and your son?

24 **A.** Correct.

25 **Q.** And what happened next?

1 A. He wanted to get, you know, a closer look --

2 Q. I know it's habit but no pronounces, please. By "he," you
3 mean your son?

4 A. Yeah.

5 Q. So he wanted to see -- he wanted to get closer?

6 A. He wanted to get a closer look. And we --

7 Q. I'll stop you there.

8 How did you know he wanted to get a closer look?

9 A. He just said I -- I'm going to see -- I want to get a closer
10 look, that's what he said.

11 Q. Those were his words, I want to get a closer look?

12 A. Yeah.

13 Q. Said to you and your wife?

14 A. Uh-huh (affirmative).

15 Q. Yes?

16 A. Yes.

17 Q. And what happened next, sir?

18 A. I said that I want to stay here with your mom because I didn't
19 want to bring her any closer.

20 Q. Okay. You didn't tell him not to do it.

21 A. I just said, don't get too close. And then at that point we
22 step back and there was masses of people and we got separated.

23 Q. You said "we." Who got separated?

24 A. My wife and I from my son.

25 Q. But you knew your son said he was going to get a closer look?

1 **A.** It was like just from an angle or something. I didn't think
2 he was going to go to the Capitol.

3 **Q.** But when he left from you to get a closer look implies that
4 one moved closer, so he went toward the Capitol, correct?

5 **A.** Correct.

6 **Q.** And at this point there's violence going on all over the
7 place, correct?

8 **A.** Well, we were back. It looked like there was some violence
9 going on close to the front of it, yes.

10 **Q.** What did you see, sir, please describe it.

11 **A.** I saw pushing and shoving.

12 **Q.** People pushing and shoving law enforcement?

13 **A.** Uh-huh (affirmative).

14 **Q.** Yes?

15 **A.** Yes.

16 **Q.** Did you see people climbing the buildings?

17 **A.** The scaffolding on the side it looked like.

18 **Q.** You saw people climbing the scaffolding?

19 **A.** Uh-huh (affirmative).

20 **Q.** Did you go get your son and bring him back?

21 **A.** I tried to find him and I called him but the cell phones
22 weren't working.

23 **Q.** And you've seen his cell phone pictures and you've seen -- you
24 know his phone was working at some point?

25 **A.** Well, during the day when we were trying to call and I was

1 trying to call him and trying to call us, there was no signal at
2 that time because I think the systems were crashed a bit.

3 **Q.** So you're witnessing the violence, you know your son is headed
4 towards the violence and now you --

5 **A.** I didn't know he was heading towards the violence, but we got
6 separated and I was trying to reach him, and I couldn't reach him
7 because there was no signal.

8 **Q.** And so what did you do next?

9 **A.** We just tried to find him. We looked around for him, but we
10 stayed outside. Eventually he came outside and met us.

11 **Q.** When he came out, what did he say? Whoa, whoa, I'm sorry. He
12 came out?

13 **A.** Well, he came back to the lawn where we were.

14 **Q.** You said "he came out"?

15 **A.** Right.

16 **Q.** Describe what you meant.

17 **A.** He came out to meet us out on the lawn.

18 **Q.** Out of where?

19 **A.** Out of where I assumed that he -- you know, he was inside.

20 **Q.** So you're saying that he came out of the Capitol?

21 **A.** Well, he came out -- yes, he came out to meet us, and that's
22 where we were, out on the lawn.

23 **Q.** Did you see him come out of the Capitol?

24 **A.** No, I did not.

25 **Q.** So you're out on the lawn of the Capitol, and then your son

1 came out?

2 **A.** Right. Right.

3 **Q.** What did he tell you happened?

4 **A.** He said that he went inside.

5 **Q.** He acknowledged to you that he went inside the Capitol?

6 **A.** Right.

7 **Q.** What else did he tell you he had done?

8 **A.** That that was about it. He said there wasn't much incident at
9 all, there wasn't much, they just walked in and they walked out.

10 **Q.** Did he tell you who he was with?

11 **A.** No.

12 **Q.** Do you remember your son having a baton?

13 **A.** Yes.

14 **Q.** Did he have that baton before he went into the Capitol?

15 **A.** Yes.

16 **Q.** He brought that baton from Georgia?

17 **A.** Yes.

18 **Q.** And then is that one of the batons that he brought back from
19 Washington to Georgia?

20 **A.** Yes.

21 **Q.** Did he tell you on your -- so what happened then? You
22 reunited with your son out on the lawn of the Capitol. He told
23 you -- he said there wasn't much, but he talked about and
24 acknowledged that he had been inside. What happened next, sir?

25 **A.** Then we went to our car and got in and drove back.

1 Q. You drove back?

2 A. To Georgia.

3 Q. That night, the night of the 5th, you stayed with a relative?

4 A. Yes.

5 Q. And then you drove back on the 6th?

6 A. Right.

7 Q. On the 6th when you drove back, did you talk about what
8 happened at the Capitol?

9 A. Somewhat.

10 Q. What did your son say?

11 MS. PARMER: Objection, your Honor. I think at this
12 point this is beyond the scope. He has read his letter, he's
13 talked about the incident, he's talked about what he knows. Now
14 we're getting into after the incident and --

15 THE COURT: Overruled. I warned him. He's up for
16 cross-examination.

17 MS. PARMER: I understand.

18 THE WITNESS: Am I allowed to take the Fifth on any
19 questions, your Honor?

20 MS. PARMER: Yes.

21 THE COURT: I'll instruct you you can. I'm going to
22 strike all the testimony. You're subject to cross-examination,
23 but you certainly can take the Fifth. I'll strike your testimony,
24 your direct testimony and your cross, up until now until it's on
25 the record.

1 THE WITNESS: Right.

2 MS. PARMER: Your Honor, would you consider his proffer,
3 his letter, separate from the cross-examination and the -- well,
4 there wasn't a direct, but would you consider the letter as a
5 proffer as we can do in a detention hearing?

6 THE COURT: No, ma'am. He's on the witness stand, under
7 oath. I warned him. Then he read his proffer and subjected
8 himself to cross-examination.

9 MS. PARMER: Yes, your Honor. And we understand
10 completely. And he said he would answer any of your questions. I
11 think at this point for my objection I think the scope is broader
12 than perhaps he's anticipated. Would you consider a proffer from
13 mom separate from witness testimony?

14 THE COURT: You can put up any proffer you want, but if
15 he's invoking, I'm going to strike all of his testimony.

16 MR. BUCHANAN: Your Honor, first of all, she doesn't
17 represent him.

18 THE COURT: Well, I'm talking to him.

19 MS. PARMER: I understand.

20 THE COURT: If he's invoking his Fifth Amendment right,
21 which is his absolute right, I'm going to strike his testimony.
22 Is that what you want to do?

23 THE WITNESS: Yes, that's what I want to do.

24 THE COURT: Stand down. Your testimony is stricken.

25 (Witness excused)

1 MR. BUCHANAN: Your Honor, just so I'm clear, it's been
2 this Court's practice many other times if his mother wants to be
3 his custodian, I would ask that she be sworn in like countless
4 other witnesses have done in this court before.

5 THE COURT: We'll see what is proposed.

6 (Pause in the proceedings)

7 MS. PARMER: A couple of things, your Honor. I don't
8 remember specifically if I did or not, but we would move to admit
9 all of those letters as an exhibit that are referenced.

10 THE COURT: Any objection?

11 MR. BUCHANAN: No, your Honor.

12 THE COURT: They're admitted. Did we mark them?

13 MS. PARMER: Yes, they're marked.

14 THE COURT: What are they marked as?

15 MS. PARMER: I believe they're 1 and 2.

16 THE COURT: Never mind, I have them.

17 Defendant's Exhibit 1 is the big group. And then
18 Defendant's Number 2 is -- actually, it's not addressed to me,
19 it's addressed to Judge Howell and Sherwin who is the acting US
20 Attorney in the District of Columbia. Is that what we're talking
21 about?

22 MS. PARMER: Yes, your Honor, it is.

23 THE COURT: Any objection to Number 2?

24 MR. BUCHANAN: No, your Honor.

25 THE COURT: It's admitted.

1 MS. PARMER: Your Honor, I've certainly had clients who
2 were released to a custodian without the custodian subject to
3 cross. I think if you wanted to hear a proffer from mom or listen
4 to the isolated proffer from dad as we did about the nature of his
5 home and its security and his willingness to put up a property
6 bond, I think all of that is fine, but it sounds as though Mr. and
7 Mrs. Cua are going to be subject to extensive cross beyond just as
8 their role as custodian. And Ms. Cua has indicated that she
9 doesn't want to be subject to extensive cross about the situation
10 at large, just like Mr. Cua toward the end didn't want to either.

11 THE COURT: Well, here's the situation, Ms. Parmer. I
12 release people to the custody of their parents a lot. I find it
13 effective deterrence, but I require at least some investigation,
14 so to speak, into the custodian. And you put up Mr. Cua. He has
15 invoked, which is his right, but he's not a defendant in this
16 case. And so invoking as a custodian makes the Court somewhat
17 uncomfortable that an invoking witness is an appropriate
18 custodian.

19 So I will allow you to proffer whatever you want, and
20 then I'm not going to make anybody testify if they don't want to.
21 And then ultimately I will decide whether or not I'm comfortable
22 with the custodian situation.

23 MR. MORGAN: May we have a brief recess?

24 THE COURT: Absolutely. It's 10 of 4:00. Is 4:00
25 enough, 4:15, whatever?

1 MR. MORGAN: 4:15 would be fine.

2 THE COURT: 4:15 is perfect. We're in recess.

3 (After a recess, the proceedings continued as follows:)

4 THE COURT: Please be seated.

5 MS. PARMER: Your Honor, Mr. Cua, as we said from
6 Mr. Morgan's introduction, was willing to answer any questions and
7 took the stand and was advised of his rights and I think was
8 overwhelmed by the scope. And at that juncture he invoked the
9 Fifth. However -- and we don't represent him. But during the
10 recess he has indicated that he does want you to consider his
11 testimony, he does want you to consider his proffer, he's willing
12 to continue being subject to cross-examination and he understands
13 his right to remain silent however, despite what he just said he
14 would like to continue so we can feel assured that he's a decent
15 and good custodian for his son.

16 THE COURT: So now he's rethinking his taking the Fifth,
17 is that what you're telling me?

18 MS. PARMER: Yes, your Honor.

19 THE COURT: I mean, I think he needs to consult with
20 counsel, independent counsel. He is a smart man. I warned him.
21 He decided when Mr. Buchanan was questioning him it would probably
22 be in his best interest to invoke his right against
23 self-incrimination. I'm sure that there are other influences at
24 hand which cause him to rethink that.

25 I would be more than willing to recess today's

1 proceeding -- well, we'll go forward but then to allow Mr. Cua
2 to consult with independent counsel before he reneges on his
3 revocation because it's all his choice. I am very familiar with
4 Mr. Buchanan's legal skills, and I expect him to do more
5 questioning, as will the Court and so -- because the Court has
6 an independent responsibility to make sure that a particular
7 individual is an appropriate custodian. Now, that's my advice to
8 Mr. Cua, Sr., that he obtain -- seek and obtain independent
9 counsel before he takes the stand. He's free to ignore that
10 advice.

11 It's not up to Ms. Parmer or Mr. Morgan, it's only up to
12 you, Mr. Cua.

13 THE WITNESS: Your Honor, you're suggesting that it
14 would be recessed until another time?

15 THE COURT: Yes, sir.

16 THE WITNESS: Do you know when that might be?

17 THE COURT: I don't know, I'm still working on my 2:00.
18 I'll try to do it this week.

19 THE WITNESS: I would like to take the advice and get
20 counsel.

21 THE COURT: Okay.

22 Do you want to continue with the hearing today,
23 Ms. Parmer and Mr. Morgan, or do you want to recess and I'll give
24 you all another date and see where we are?

25 MR. MORGAN: I think he was our final and last witness,

1 Judge, so after he has advised counsel and counsel knows what he
2 intends to do.

3 THE COURT: I can give you a couple hours -- well,
4 hopefully not, but I can give you some time on Friday afternoon.
5 It looks like we have a 1:45 or 1:30, is that right?

6 (Unintelligible discussion)

7 THE COURT: So why don't we recess until 2:00 on Friday
8 the 12th.

9 What do you have, Mr. Buchanan? I knew you were going
10 to tell me that you had a sentencing.

11 MR. BUCHANAN: I do with Judge Thrash at 2:00 Friday.

12 THE COURT: How long do you think that will take?

13 MR. BUCHANAN: It shouldn't take longer than an hour.

14 THE COURT: Well, then, we'll try to start at 3:00 on
15 Friday. The only reason I'm hesitant about pushing it to next
16 week is because that (inaudible). And I suspect I'll have some
17 carry-over. So is 3:00 on Friday, the 12th, clear for y'all?

18 MR. MORGAN: Yes, Judge.

19 MS. PARMER: Yes, your Honor. And as Mr. Morgan said,
20 that was our only witness, so I anticipate, depending on the
21 government's cross in the event he takes the stand, it should be
22 brief.

23 THE COURT: While it's fresh -- do you want to say
24 something, Mr. Morgan?

25 MR. MORGAN: No.

1 THE COURT: While it's fresh in my mind, Mr. Buchanan,
2 I just think I should give you the opportunity to address
3 Ms. Parmer's *Bates*, for lack of a better term, *Bates* argument.

4 And I do have a question because you did say Count 3 of
5 the indictment was a 111(a), correct?

6 MR. BUCHANAN: That is my reading of a draft of the
7 indictment, your Honor. I can have a copy of the actual one. I
8 imagine it will return soon.

9 THE COURT: I mean -- you know, my --

10 MR. BUCHANAN: Your Honor, and I'm digesting
11 Ms. Parmer's argument, but I imagine that the obstruction with a
12 deadly weapon, I don't know the *Johnson* analysis on that statute,
13 but my very, very two-second response would be that that is likely
14 a crime of violence as well.

15 *Bates* was my case, which is interesting that I don't
16 know the opinion that well, but I would argue without any research
17 that that obstruction with a deadly weapon counts as a deadly
18 weapon -- counts as a crime of violence per *Johnson*, and I'll find
19 out which prong of assault has been charged. I imagine that by
20 Friday we'll have a copy of the final indictment anyway.

21 THE COURT: Okay. Perfect.

22 MR. BUCHANAN: And then I would also argue that the
23 motion to dismiss that count, that -- I mean, that goes toward the
24 indictment and doesn't necessarily go towards, you know, what
25 we're arguing here today.

1 THE COURT: Okay. Well, just be prepared to address
2 that on Friday.

3 Anything further in Mr. Cua's case this afternoon?

4 MR. MORGAN: Not from the defendant, your Honor.

5 THE COURT: All right. You're remanded back to the
6 custody of the marshals pending the preclusion of the detention
7 hearing at 3:00 on February the 12th.

8 We are adjourned.

9 (PROCEEDINGS REPORTED WERE CONCLUDED 4:55 P.M.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by electronic equipment and transcribed by me in the case aforesaid.

This the 12th of February, 2021.

Penny Pritty Coudriet



PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER

Exhibit 2

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)
)
)
-VS-) DOCKET NO. 1:21-MJ-129-AJB
) VOLUME 2
BRUNO JOSEPH CUA,)
)
)
DEFENDANT.)

**TRANSCRIPT OF THE CONTINUATION OF DETENTION PROCEEDINGS
BEFORE THE HONORABLE ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE
FEBRUARY 12, 2021**

APPEARANCES:

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ON BEHALF OF THE DEFENDANT:
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MOLLY PARMER, ESQ.

ON BEHALF OF MR. AND DR. CUE:
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PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

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1 (PROCEEDINGS HELD IN OPEN COURT AT 3:28 P.M.)

2 THE COURT: Good afternoon, everyone. Please be seated.

3 This is the continuation of the case of The United
4 States of America v. Bruno Joseph Cua, case number 1:21-MJ-129 in
5 this district. As far as I know it's still 1:21-mj-187 in the
6 District of Columbia. Either the indictment hasn't been returned
7 or I don't have a number for it.

8 MR. BUCHANAN: It looks like it has the same magistrate
9 number on the front of the indictment, your Honor.

10 THE COURT: And Mr. Buchanan is here representing the
11 United States. And Ms. Parmer and Mr. Morgan are here
12 representing Mr. Cua. And Mr. Samuel is here for Mr. Cua and
13 Dr. Cua as well?

14 MR. SAMUEL: Yes.

15 THE COURT: So where we were the other day -- first of
16 all, I know that there are people on the phone. I'm going to
17 request that all except for my pretrial services officer mute
18 their microphones. Nobody is allowed to say anything other than
19 my pretrial services officer. And everybody please mute their
20 phones here in the courtroom as well.

21 All right. So where we were the other day was that
22 Mr. Cua, Sr., was testifying and on cross-examination he invoked.
23 And then we took a break and he thought to uninvoke. And I told
24 him you need to consult with counsel first. Learned counsel is
25 here now.

1 Mr. Samuel, I don't know if you have an announcement.

2 MR. SAMUEL: Sure. I met with him yesterday for several
3 hours and met with him today for several hours, and he would like
4 to continue with his testimony and uninvoke.

5 THE COURT: All right. Very well.

6 Mr. Cua.

7 COURTROOM DEPUTY CLERK: Can you please raise your right
8 hand.

9 (The witness was resworn)

10 COURTROOM DEPUTY CLERK: You can have a seat. Can you
11 please state your name for the record.

12 THE WITNESS: Joseph Cua.

13 THE COURT: Mr. Buchanan, you may continue.

14 MR. BUCHANAN: So I'm clear, your Honor, because I've
15 reviewed the transcript, when we concluded his testimony Wednesday
16 your Honor struck his testimony. With his uninvoication has your
17 Honor also unstruck his testimony, or do I need to start over,
18 that's my only question?

19 THE COURT: I will consider his testimony as long as he
20 doesn't invoke. But he's got counsel here and we will be governed
21 by his counsel.

22 MR. BUCHANAN: Sure. So I can pick up where I left off
23 as opposed to starting from scratch?

24 THE COURT: You may.

25 MR. BUCHANAN: Thank you.

1 JOSEPH CUA

2 a witness herein, being first duly sworn,

3 was examined and testified as follows:

4 CROSS-EXAMINATION (CONT'D)

5 BY MR. BUCHANAN:

6 **Q.** Mr. Cua, Wednesday when we talked, I believe towards the end
7 of your testimony you testified that your son left you and your
8 wife, y'all were outside of the Capitol and he said that he wanted
9 to get a closer look, is that correct?

10 **A.** That's correct.

11 **Q.** And after he said that he wanted to get a closer look, he then
12 walked towards the Capitol, correct?

13 **A.** Correct.

14 **Q.** I believe it was also your testimony that prior to your son
15 walking towards the Capitol, you were aware that he had brought
16 that baton from Georgia, correct?

17 **A.** Correct.

18 **Q.** And so he walked toward the Capitol and you and your wife
19 remained outside, correct?

20 **A.** Correct.

21 **Q.** And approximately, sir, how much time passed before you saw
22 your son again?

23 **A.** It's hard to tell. I'm not sure if it was an hour or it could
24 have been an hour-and-a-half, I'm not really sure, sometime around
25 that.

1 Q. Physically approximately how far away from the Capitol were
2 you when you last saw your son?

3 A. We were on the grounds, you know, before all the stairs and
4 all the scaffolding like out on the grounds area.

5 Q. Concrete or grass?

6 A. I think it was right at the concrete and grass, right where
7 those -- the grass ended and concrete started.

8 Q. And you testified Wednesday that you saw people climbing the
9 scaffolding, correct?

10 A. Correct.

11 Q. And you saw people pushing and shoving with law enforcement,
12 correct?

13 A. Correct.

14 Q. And so after some time your son came out, correct?

15 A. Correct.

16 Q. That is, away from the Capitol, correct?

17 A. Correct.

18 Q. And then I believe where we left, you said that you, your son
19 and your wife went back to the truck and then returned to Georgia?

20 A. Correct.

21 Q. And my question then when we stopped was: What did your son
22 say to you on the way back?

23 A. He said that he had gone in and they had walked around and he
24 had taken some pictures and, you know, that was it. Like, again,
25 there was some pushing and shoving, but he said it was largely

1 without incident, per se.

2 **Q.** Did he mention the pushing and shoving with the Capitol police
3 officer?

4 **A.** He said there was a bunch of guys and there was a -- he said
5 there was a guy, it wasn't an armed -- or, I mean, a uniformed
6 officer, it was like a guy in a suit jacket or something.

7 **Q.** So he -- he talked about a plain-clothed officer?

8 **A.** I guess, yeah.

9 **Q.** And did he say anything else about what happened on this trip?

10 **A.** On that, no, that was about it.

11 **Q.** And what was your response?

12 **A.** I was -- my heart sank, my wife and I's heart sank. We were
13 shocked that he had -- that he had gone. We lost track of him, we
14 were trying to call and text him, both of us were, many times, but
15 there was no signal. And, again, everyone was on their phone so I
16 couldn't reach him, but we were trying to reach him to find out
17 where he was to get him out of there. So it was a shock that he
18 had gone in there.

19 **Q.** Okay. And then y'all drove back to Georgia?

20 **A.** Yes.

21 **Q.** And to pick up on a little bit of what we talked about
22 Wednesday night, you and I, but myself and the Court (sic), are
23 you aware your son has social media?

24 **A.** Yes.

25 **Q.** Do you review some of his social media?

1 **A.** Not really. I mean, I'll see an occasional Instagram post,
2 but I don't really review and monitor his social media.

3 **Q.** And you're aware that I read several of his Instagram posts in
4 court Wednesday, correct?

5 MS. PARMER: Objection, your Honor. I think that that
6 is a fact not in evidence. My understanding is that those are
7 private messages, direct messages and not posts.

8 THE COURT: I'll let you redirect on that, and I
9 overrule the objection.

10 MS. PARMER: Okay.

11 BY MR. BUCHANAN:

12 **Q.** So you were seated in the courtroom when I read some Instagram
13 messages in court Wednesday, correct?

14 **A.** I was here, and that's my understanding as well, that they
15 were direct messages, though, and not necessarily public posts.

16 **Q.** Have you ever seen any public posts of similar rhetoric?

17 **A.** No.

18 **Q.** Do you follow your son on Instagram?

19 **A.** Not -- I'm not really on social media, on LinkedIn mostly, and
20 like once in awhile I'll check Instagram. But I'm not really a
21 social media person, and I do not regularly monitor his.

22 **Q.** What about Parler?

23 **A.** I do have a Parler account, a couple months ago I started it.

24 **Q.** And are you aware that your son uses Parler as well?

25 **A.** Yes.

1 Q. Do you use Parler to communicate with your son?

2 A. No.

3 Q. What about Twitter?

4 A. I think he's on Twitter as well. I -- yeah, I believe -- I
5 think he's got a lot of social media accounts. I don't know all
6 of the ones he has.

7 Q. Have you ever seen a Parler post of your son related to
8 dragging Governor Kemp out of the Governor's mansion?

9 A. No, I have not.

10 Q. We talked Wednesday about several instances where the police
11 have been called related to your son's activities. Do you
12 remember that?

13 A. Yes.

14 Q. Did you give that any additional thought after the hearing
15 Wednesday?

16 A. Well, I, you know, replayed our conversation, but not much
17 more than that.

18 Q. Do you have a better idea of how many times the police were
19 called about your son's activity?

20 A. No, I'm not sure how many times.

21 Q. I believe we left it at roughly five or six, does that sound
22 about correct?

23 A. I really don't know how many times, you know. I don't know if
24 I was home all the time when this happened. I'm not always home.

25 Q. How many times has it happened while you've been home?

1 **A.** If I recall, you know, I mean, while I was home maybe it was
2 half a dozen times, at least while I've been there, but I know
3 there's been other times as well.

4 **Q.** So you're aware of at least six times of which the police have
5 come to your home --

6 **A.** I don't know the exact number on that.

7 **Q.** I'll soften it for you. You're aware of roughly five or six
8 times where the police have come to your home about your son's
9 activities?

10 **A.** Roughly, yes.

11 **Q.** And then as we talked Wednesday, you're also aware of the
12 incident that happened at the school because you were present for
13 that, correct?

14 **A.** Correct.

15 **Q.** You're aware that there was another instance where your son
16 received a warning related to an air horn, correct?

17 **A.** Yes.

18 **Q.** And you're also aware of the January incident where your son
19 was cited for criminal trespass, correct?

20 **A.** I thought that was also a warning for trespassing.

21 **Q.** But the trespassing incident, your son, you, awareness, right?

22 **A.** Correct.

23 **Q.** And so in essence, you know, we've discussed during your
24 testimony roughly ten or so times in which your son has had an
25 interaction with law enforcement prior to January 6th, 2021?

1 **A.** Correct.

2 **Q.** Do you think you're aware of any others?

3 **A.** I know there were others but, you know, as far as -- I don't
4 know exactly how many.

5 **Q.** Those others, what do they relate to?

6 **A.** Well, I think a large part of the interactions with police
7 coming and stuff like that was with -- as I stated on Wednesday,
8 we live in an agricultural zone and we live on a gravel road, and
9 people have farm animals and they have property. And my boys have
10 the ATVs, and they'll go from property to property on ATVs. They
11 use these ATVs, they do use them for fun, but they're also used
12 for farm use, they move hay, they spread seed, they drag arenas,
13 they do different stuff.

14 So some neighbors don't like the ATVs. So when the boys will
15 get on them and go down the road to another property, some
16 neighbors would call the police and say they're not allowed to
17 drive ATVs on the road. So I think there were several of those
18 instances that involved those conversations. And those
19 interactions, you know, there were no like arrests or, you know --
20 you know, civil disturbance or anything, it was more discussions
21 and nothing usually resulted from it.

22 **Q.** Have you ever had any conversations with those folks who
23 called the police -- who keep calling the police on your sons?

24 **A.** Yeah. Yeah.

25 **Q.** And tell us about those discussions.

1 **A.** Just, you know, just wondering if there's something we can do,
2 like did I -- because we've been living there for 14 years and it
3 wasn't a problem until like a year -- a couple years ago. The
4 people who moved in, I guess, didn't like it and started calling,
5 you know. But there's several people on the road who have ATVs,
6 it's not like it's an uncommon thing.

7 **Q.** Do those folks get the police called on them as well?

8 **A.** Yeah. My neighbor across the street, his son who lives there,
9 he was 13 or 14 at the time, he got a ticket, a violation, moving
10 violation and had to go to court for it. I think it was the same
11 neighbor that had called on that.

12 **Q.** Despite these times where the police have been called on your
13 sons about the ATVs, have you ever told them to stop?

14 **A.** Told my son to stop?

15 **Q.** Yeah.

16 **A.** Well, we did curtail the driving of the ATVs quite a bit. I
17 mean, he hasn't had an ATV for a year or so. I think it's broke
18 down, we just said forget it. We have a small one that my
19 daughter uses too.

20 But, yeah, we did curtail the driving because we just really
21 didn't want to -- the interaction anymore. It was like we just --
22 we just said, look, just back off ATVs and stay off the roads.

23 I know that my former neighbor, who is an FBI agent, he was
24 pulled over also on the road -- well, he was on his ATV picking up
25 trash on the road and he was pulled over and he had an interaction

1 with the police as well about the very same thing.

2 **Q.** Is it the police's fault?

3 **A.** No, no, no, it's not the police's fault. It's not the
4 police's fault at all.

5 **Q.** Then why does it keep happening?

6 **A.** I -- just -- well, part of it is that this road was just a
7 gravel road until it became part of the parks, the city parks
8 system. It's part of the Milton Trail System, so it became part
9 of the park system. And since that happened, a lot of people are
10 parking and walking on the roads, there's a lot more congestion on
11 the roads. So I think it just kind of -- it wasn't a problem
12 years ago, now it's become kind of a problem I think because of
13 that.

14 And there's discussion, too, about agricultural vehicles, many
15 on the roads, you know, like -- you know, it's an agricultural
16 vehicle because there's a Georgia Code, I'm not sure what the one
17 is about, you know, you can use these in this area, not like
18 driving the streets of the city but you're going from property to
19 property. So that's kind of what those discussions with the
20 police would revolve around.

21 **Q.** Has anyone ever alleged or told the police that your son got
22 too close to them on an ATV?

23 **A.** No.

24 **Q.** Has anyone ever said that your son got too close to them in
25 his truck?

1 **A.** I never heard that until you read it in one of those letters.

2 **Q.** You're aware that your son participated in a truck calvary?

3 **A.** Correct.

4 **Q.** Right?

5 **A.** Yes.

6 **Q.** Did you participate with him?

7 **A.** I did once or twice.

8 **Q.** And did any of that participation result in any tension on the
9 roadways with anybody?

10 **A.** Never. We usually coordinated with Alpharetta or Milton
11 Police to help to handle the traffic when we were doing that.

12 **Q.** What was the last one of these that you participated in, sir?

13 **A.** It was probably -- it was definitely leading up to the
14 election, and I think there were a couple after the -- in
15 November, but there were certainly some in probably September,
16 October, you know.

17 **Q.** The ones after these truck and car incidents, I believe you
18 heard me discuss a letter which someone said that your son drove
19 his truck up close to them and blared his horn and that kind of
20 thing. Do you remember that?

21 **A.** Yes.

22 **Q.** Were you aware of that?

23 **A.** No.

24 **Q.** So you've never heard of any incidents related to your son and
25 his truck?

1 **A.** No.

2 **Q.** Have you had any discussion with your son about what happened
3 in the Capitol after you returned from Washington?

4 **A.** Yeah. I mean, we -- I realized that, you know, he did
5 something very wrong and he could be in a lot of trouble.

6 **Q.** And you testified Wednesday that you believed that your son
7 had been misled?

8 **A.** I felt like he -- he was parroting a lot of the rhetoric he
9 hears online from a lot of people. And I feel like he sort of,
10 you know, would repeat stuff that he would hear. And I felt like
11 he, you know, as a teenager sort of believed a lot of stuff that
12 was going on.

13 **Q.** What do you mean?

14 **A.** Just about the election.

15 **Q.** Like what about it?

16 **A.** That, you know, there was all this fraud and that there was --
17 the election was stolen and, you know, that kind of stuff.

18 **Q.** But you acknowledged that you participated in a rally with him
19 after the election, correct?

20 **A.** Correct.

21 **Q.** And what was the subject of that rally?

22 **A.** You mean the local rallies?

23 **Q.** The one that you participated in after the election.

24 **A.** Yeah. It was essentially the same thing. It was, you know --
25 it was a rally around, you know, the election results, we should

1 see the real results and that type of thing.

2 **Q.** Do you recognize that that is not true?

3 **A.** Yes, I do.

4 **Q.** But you recognize also that you participated in that activity
5 with your son?

6 **A.** Well, in peaceful rallies, yes. And in what I thought were
7 going to be peaceful rallies, yes.

8 **Q.** Do you share in the responsibility in your son's belief and
9 his actions?

10 **A.** I share, yes, responsibility in that. And I -- those direct
11 messages and some of the things he wrote were a shock to me
12 frankly. I had not seen those. And --

13 **Q.** Had you heard him say things like that before?

14 **A.** No, that's just not the way we talk around our house, you know
15 what I mean? That's why I feel like he's parroting stuff from
16 other leaders on social media and leaders in the public that --

17 **Q.** Leaders like who?

18 **A.** Like the President or, you know, the attorneys, like, Lin Wood
19 and all these people saying we have all this information and
20 everything's going to come out, you know, we were stolen, we were
21 robbed. And I, myself, feel pretty embarrassed, that I think a
22 lot of us felt like that this is what happened and we believed
23 these people and feel pretty disillusioned that there was no big
24 reveal and nothing came out and it's -- it's disillusioned,
25 disheartening and embarrassing quite frankly.

1 Q. When did you reach that conclusion, sir?

2 A. I feel like, you know, January 6th when things came to that
3 kind of -- that awful head, that I felt like this is just --
4 everything is getting out of hand and that -- you know, that type
5 of behavior is just not who that side of the aisle should be, the
6 right side, that's not who we are.

7 And then like when -- just keep getting, saying, it's coming,
8 all this stuff is going to come out, all this. And at some point
9 you're like I think this is a bunch of BS, pardon me. You know,
10 at that point I'm like, I'm done, I'm done with all of this, you
11 know.

12 Q. Were you done before or after your son got arrested?

13 A. I was done before.

14 MR. BUCHANAN: Nothing else, your Honor.

15 THE COURT: Redirect?

16 MS. PARMER: Sure, your Honor. I didn't know if you
17 wanted to follow with any questions before my redirect.

18 THE COURT: Nope. Go right ahead.

19 MS. PARMER: Thank you.

20 REDIRECT EXAMINATION

21 BY MS. PARMER:

22 Q. Mr. Cua, there has been a lot of talk about a number of
23 interactions with the police and your son. Of those how many,
24 quantity-wise, how many citations has he ever received?

25 A. None. Well, I mean, there's the warning that -- the horn

1 violation I think was the only ticket.

2 **Q.** That's what I'm asking. How many tickets has he received
3 despite all of those interactions?

4 **A.** One.

5 **Q.** So he has never received a citation for driving too closely in
6 his truck to somebody?

7 **A.** No.

8 **Q.** Or for an ATV?

9 **A.** No.

10 **Q.** Or even for trespass?

11 **A.** That was a warning.

12 **Q.** That was a warning.

13 I want to talk a little bit about social media.

14 You testified that you had never heard what was read on
15 Wednesday regarding your son's -- they were called social media
16 posts, correct?

17 **A.** Correct.

18 **Q.** What is your understanding now of what those actually were?

19 **A.** You know, I haven't had a chance to discuss it with him,
20 obviously, but I think that -- like I said to Mr. Buchanan, the
21 rhetoric that he, you know, was fed from other leaders on social
22 media and leaders in the public about everything that was going
23 on. And as a -- you know, as a middle-aged man I feel like that
24 can filter a little bit of that with reality. But I feel like as
25 a teenager, he was drinking it in and, you know, just believed it

1 too much.

2 **Q.** And in terms of the difference between posts and a private
3 direct message, do you understand the difference between those
4 two?

5 **A.** Yes, I believe I do. I mean, obviously a post is a public
6 thing and a direct message is between two individuals.

7 **Q.** And what's your understanding of what was read into the record
8 on Wednesday regarding your son and some of the statements about
9 Revolution 1776?

10 **A.** I believe those were direct messages; so, in other words, just
11 between two people.

12 **Q.** And when had you ever seen those or heard those prior to
13 Wednesday?

14 **A.** Never.

15 **Q.** Had you been aware of those private direct messages, what
16 would you have done in consideration of January 6th?

17 **A.** I would have yanked him off social media immediately, and we
18 would probably have never, ever gone to DC that day and the day
19 before.

20 **Q.** But you have gone to rallies with your son prior to
21 January 6th?

22 **A.** Yes.

23 **Q.** Did he stay by your side during those rallies?

24 **A.** Unless he was driving a truck with a bunch of other folks.

25 **Q.** And at those rallies tell me about any acts of violence that

1 you witnessed.

2 **A.** None.

3 **Q.** I understand that you said your social media use is limited.

4 Despite its limited nature, how many times did you ever read
5 anything about plans to invade the Capitol on January 6th?

6 **A.** Never.

7 **Q.** Why did you and your family go?

8 **A.** We just wanted a show of support, just like we had gone to all
9 the other rallies.

10 **Q.** Today do you believe the election was stolen?

11 **A.** No.

12 **Q.** Why not?

13 **A.** Because the evidence never came out.

14 **Q.** And what did you think was going to happen on January 6th?

15 **A.** I expected the speech. And I expected us to go over to the
16 Capitol. And I expected, you know, there to be as many people as
17 we could to -- because I understood that some senators were going
18 to object to Electoral College votes, and I thought, and many of
19 us thought, that seeing masses of people bolsters their courage,
20 their confidence to, you know, object to the election, that's what
21 I thought the intent was.

22 **Q.** Did you expect that there was going to be violence or an
23 invasion of the Capitol at any point?

24 **A.** Not at all.

25 **Q.** Did you and your family have any plans to meet up with a group

1 at that January 6th rally?

2 **A.** No, not at all.

3 **Q.** What about on the drive back, tell me what, if any, news
4 reports you were hearing or --

5 **A.** Nothing. That older truck that we have is a -- has a terrible
6 radio, so it was -- we didn't really listen to anything on the --
7 couldn't get any kind of FM signal.

8 **Q.** What, if anything, would you say that you've learned from this
9 experience?

10 **A.** Many things. I just, again, feel responsible for bringing him
11 up into that environment. I feel embarrassed that we drank in a
12 lot of this rhetoric from these so-called leaders that just never
13 materialized. And I think it's -- I feel like I should have maybe
14 known a little bit better at my age. I can understand how young
15 people get swept up a little bit more into it, but I think we'll
16 have a very different heart and posture going forward.

17 **Q.** What about plans to attend any rallies or truck parades, what
18 are you or your family's plans?

19 **A.** I can't see us doing that any time, maybe ever again.

20 **Q.** How would you describe your home environment?

21 **A.** I feel like we have a very great home environment. I feel
22 like we're very blessed. I have a daughter who is 17. I have a
23 son who's 13. And my mother-in-law lives up the street, she has
24 Alzheimer's but she comes to visit, we bring her to the house
25 frequently. We have dogs and a cat outside, some chickens. It's

1 a very normal, stable place.

2 We've been there for 14 years. And my wife and I have been
3 married for 20 years. And up until last year I was working for
4 the same company for 21 years.

5 **Q.** Tell me how if in the event your son is given a bond, how are
6 you and your wife going to be able to make sure that abides by any
7 terms and conditions from the Court?

8 **A.** I will do whatever the Court says.

9 **Q.** But how?

10 **A.** Well, we're -- you know, we're -- my wife is home all the
11 time, you know. He won't leave the house, won't leave our house.
12 He won't leave his room. We would agree to any conditions. I
13 would sign my house -- put my house on the line, you know, sign
14 that over if that's what it took. But we would do whatever the
15 Court asks to make sure that he can come back and just stay home
16 until the court date.

17 **Q.** There's been some talk about prior to receiving that single
18 citation for a municipal code violation for honking a horn, there
19 was a warning before that for honking a horn, right?

20 **A.** Yes.

21 **Q.** What makes a situation with your son on bond with terms and
22 conditions of bond different from your son being -- getting a
23 warning and then doing the same thing again?

24 **A.** Very different. I mean, I'm under orders from the Court to --
25 as his, you know, ward or guardian that he doesn't -- that he

1 abides by those rules. It's extremely different. I mean, if we
2 violate one thing, he goes to jail. And whatever we agree to
3 in bond would have to be paid as I understand it. But it's
4 completely different, you know. We would have a completely
5 different posture that he is not -- does not even leave the house
6 under any circumstances.

7 MS. PARMER: May I have one second to consult with
8 Mr. Morgan?

9 THE COURT: Yes, ma'am.

10 MS. PARMER: Your Honor, I believe that's it for us, but
11 certainly if you have any questions.

12 THE COURT: Any further cross, Mr. Buchanan?

13 MR. BUCHANAN: Just two quick things.

14 RE CROSS-EXAMINATION

15 BY MR. BUCHANAN:

16 **Q.** You testified on redirect that it was your hope that when you
17 left the speech and walked to the Capitol, that the masses of
18 people would bolster the confidence of the senators to object to
19 the election, is that correct?

20 **A.** Correct.

21 **Q.** And at that time when you left from the speech and walked to
22 the Capitol, you were aware that your son had a weapon?

23 **A.** Yes.

24 **Q.** And when your son left from you and your wife and walked
25 toward the Capitol, you were aware that your son had a weapon?

1 **A.** Yes.

2 **Q.** And you did not stop your son from going into the Capitol?

3 **A.** I didn't know -- have any idea that he was going to do that,
4 go into the Capitol at all.

5 **Q.** But you do know when he left from you, that he walked toward
6 the Capitol?

7 **A.** Yes.

8 **Q.** And at that time there was fighting going on, he was walking
9 towards the fighting, correct?

10 **A.** Well, he was wanting to climb up to get more of a view to see
11 what was going on.

12 **Q.** He was wanting to climb up what?

13 **A.** Like there was like a scaffolding on the side, he wanted to
14 see what was happening.

15 **Q.** The observation deck for the inauguration, is that what you're
16 talking about?

17 **A.** I guess so, yeah.

18 **Q.** So you were that close to the Capitol?

19 **A.** He wanted to go up there, said can I climb up there and look,
20 and I said okay.

21 **MR. BUCHANAN:** Nothing else, your Honor.

22 **THE COURT:** Mr. Cua, when you were at this speech, I
23 guess the speech by the ex-President?

24 **THE WITNESS:** Yes.

25 **THE COURT:** Do you recall that there were people around

1 with firearms?

2 THE WITNESS: No.

3 THE COURT: You didn't see any people carrying firearms?

4 THE WITNESS: No.

5 THE COURT: Did you see anybody wearing paramilitary
6 outfits, camouflage, helmets?

7 THE WITNESS: At the speech, no.

8 THE COURT: When you went down toward the Capitol, did
9 you see people wearing camouflage or paramilitary outfits?

10 THE WITNESS: I mean, there were some people, it looked
11 like they were up very close there that looked like they were
12 wearing some gear, yes.

13 THE COURT: Were people carrying weapons?

14 THE WITNESS: I didn't see people carrying weapons, no.

15 THE COURT: Did you see -- you saw your son carrying a
16 weapon?

17 THE WITNESS: Yes. Well, the baton, yes.

18 THE COURT: Yeah. A weapon?

19 THE WITNESS: Yes, sir.

20 THE COURT: Right. And you didn't tell him to put it
21 away?

22 THE WITNESS: No, sir.

23 THE COURT: You didn't tell him not to bring it?

24 THE WITNESS: No, sir.

25 THE COURT: You didn't tell him to leave it in the

1 truck?

2 THE WITNESS: No, sir.

3 THE COURT: And you saw the people dressed in their
4 paramilitary outfits before your son said I'm going to climb up on
5 the scaffold?

6 THE WITNESS: Yes.

7 THE COURT: And you didn't tell your son not to do that?

8 THE WITNESS: No.

9 THE COURT: And on the 6th you already were aware that
10 there had been no disclosure of evidence that the election was
11 fraudulent or stolen, is that correct?

12 THE WITNESS: That's correct.

13 THE COURT: So by then whatever evidence you expected to
14 see, you hadn't gotten?

15 THE WITNESS: Correct.

16 THE COURT: And yet you were going down to be part of
17 the crowd to bolster the senator?

18 THE WITNESS: Allegedly some senators said they were
19 going to object to certain states. I don't understand the exact
20 process, but they were going to object to certain states. So, you
21 know, the idea when you assemble is to show that the people are
22 behind -- you know, their constituents are behind there so that it
23 bolsters their confidence to do what they needed to do to object
24 or whatever they needed to do legislatively.

25 THE COURT: And you had these conversations about your

1 purpose of the trip with your son, correct?

2 THE WITNESS: Yes.

3 THE COURT: And after -- on your way back did you
4 discuss with your son what was on social media?

5 THE WITNESS: No, I didn't. The social media that we're
6 talking about here --

7 THE COURT: I'm not talking about your son's social
8 media. The sort of stuff on social media, did you have
9 conversations with your son about the stuff that was on social
10 media about Revolution and Civil War and I'm not going to let them
11 steal the election and all those things that were being talked
12 about in some segments of the media, social and otherwise?

13 THE WITNESS: Yeah, I didn't have a conversation with
14 him at that time. In fact, I'm, you know, again, surprised about
15 all that stuff that I had seen and heard. I'm not much on social
16 media.

17 THE COURT: But you knew that your son was on social
18 media?

19 THE WITNESS: Yes, sir.

20 THE COURT: And you knew that your son took this -- the
21 results of this election very personally?

22 THE WITNESS: Yes, sir.

23 THE COURT: And so did y'all discuss what you were
24 reading, both of you were reading on media and social media?

25 THE WITNESS: Yes, we did discuss it, and I did feel

1 like let's wait and see, let's wait and see. We had conversations
2 that said that there's going to be all this evidence, they said
3 they have it all, it's going to come out, I said let's wait and
4 see. And it never came.

5 THE COURT: Well, and then how about after the 6th, did
6 you have conversations about what was on social media after the
7 6th?

8 THE WITNESS: Well, after the 6th I said, look, this --
9 you know, that's the last rally we're ever going to go to. You
10 know, it's done. They're not -- they keep promising there's going
11 to be all this information. And I said, that's it, no more
12 rallies about anything. You know, the election is over, it's time
13 to move on.

14 THE COURT: And when did you say that?

15 THE WITNESS: You know, in days -- I don't know, days
16 after that incident.

17 THE COURT: Not on the ride back?

18 THE WITNESS: On the ride back it was late. I think we
19 got gas, we got food. And he, you know, was in the back. My wife
20 and I were talking, and we just drove back.

21 THE COURT: How close in time -- you got back to Georgia
22 on the 7th?

23 THE WITNESS: In the early morning, might have been like
24 maybe 2:00 in the morning or something like that.

25 THE COURT: When do you all think you had this

1 conversation about moving on?

2 THE WITNESS: Those -- that -- those next couple of
3 days, I said, we're done, this is it, we are done.

4 THE COURT: I do not have any other questions. Does
5 anybody else have any other questions for Mr. Cua?

6 FURTHER RECROSS-EXAMINATION

7 BY MR. BUCHANAN:

8 Q. Just, Mr. Cua, you mentioned that you don't have social media,
9 you don't post public things on social media?

10 A. Well, I'm not on social media much. I'm on LinkedIn. I check
11 Instagram once in awhile. And then I had opened a Parler account
12 like a couple of months maybe or something like that.

13 Q. What about your wife?

14 A. Yes, she is on social media more than I am.

15 Q. Which social media platforms?

16 A. I think maybe Twitter, Instagram, maybe Facebook. I'm not
17 really sure.

18 Q. Have you ever seen any of her tweets?

19 A. I don't really check her tweets. And I don't think I even
20 follow her on pages.

21 Q. Ever seen a Tweet from her related to live free or die
22 fighting?

23 A. No, I haven't.

24 Q. Does that sound surprising?

25 A. I think that's a pretty common -- I see that a lot on, you

1 know, T-shirts and flags and military people, live free or die. I
2 feel like, you know, I've seen that phrase quite a bit.

3 **Q.** Okay. And just so we're clear, when your son -- when you told
4 your son he could go climb the scaffolding of the observation deck
5 for the inauguration, did your wife try to stop him?

6 **A.** No. She was next to me, and it was me that allowed him to do
7 that.

8 **Q.** But she saw where he went as well?

9 **A.** Yes.

10 **Q.** And she didn't scream, come back, stop, no?

11 **A.** She was very nervous, you know.

12 **Q.** Did she also know that he had the baton?

13 **A.** Yes.

14 **MR. BUCHANAN:** Okay. Nothing else, your Honor.

15 **THE COURT:** Mr. Cua, you may step down.

16 (Witness excused)

17 **THE COURT:** Any other evidence on behalf of Mr. Cua?

18 **MS. PARMER:** No evidence, just argument, your Honor.

19 **THE COURT:** Any other evidence by the government?

20 **MR. BUCHANAN:** No, your Honor.

21 **THE COURT:** Mr. Buchanan, tell me why we can't fashion
22 conditions for this young man.

23 **MR. BUCHANAN:** Your Honor, we cannot fashion conditions
24 for this young man because he has proven time and time again that
25 he is unresponsive to the instructions of law enforcement. He has

1 had multiple run-ins with law enforcement over the past couple of
2 years. They are escalating in type. Many of these sort of
3 involve just blatant disregard for what he's told to do.

4 That trespassing that we talked about the other day that
5 his father testified about is a great example. He was told not to
6 do something, right in the presence of the person who told him not
7 to do it, and he did it any way. This behavior has not stopped.
8 Having one, two, three, four, five, six, seven, eight, nine, ten
9 instances prior to this trip to the Capitol has not deterred him.

10 So I believe that we can't fashion conditions because
11 he has proven to us with his behavior in the past that he is
12 unwilling to follow those conditions. Perhaps this is just the
13 first time where there's been a consequence to it, and so there's
14 an exhibition of contrition or maybe some remorse, but that
15 doesn't lead us to conclude that he would do any better.

16 Plus, your Honor, the rhetoric, as his father said, that
17 they had a talk after he got back from DC, gives us more about how
18 he would behave going forward. On these messages, someone says to
19 him on January 7th, after this, they say: I don't understand why
20 Trump wants us to back down. We should be running in there with
21 guns ablazing all over Congress. That's what our founding fathers
22 would have done.

23 (Noise interruption)

24 THE COURT: Hold on one second. I don't know who is
25 talking online, but I'm going to shut it down if you don't shut

1 down the noise right now. You've been warned, one more sound and
2 it's getting cut off.

3 Sorry, Mr. Buchanan.

4 MR. BUCHANAN: No worries.

5 And then Mr. Cua responds: I don't think he wants us to
6 back down. He has to call for peace. But he also said this is
7 what happens when you steal an election.

8 That's no backing down. That's no -- it's not an
9 instance where he has realized what happened on that day was wrong
10 and he wants to do differently.

11 After this January 6th post thing, his post
12 insurrection, he said: We're taking our country back by force.

13 January 7th: If Trump doesn't get in, we will be back
14 in DC for a blood bath.

15 And, your Honor, this tracks with what we talked about
16 Wednesday in December, he said, we can storm the Capitol, we can
17 run in the Senate. And then that's exactly what he did. And then
18 there's no letup, there's no backing away, there's no backing down
19 since then. So that's precisely why I don't believe we can
20 fashion conditions because he hasn't shown us personally that he
21 is willing to abide by any conditions.

22 Secondarily to that, your Honor, Mr. Cua is by no means
23 a sufficient custodian for him. In addition to sort of allowing
24 this rhetoric, participating in this activity that essentially led
25 his son to this point, he went with him, drove hours to DC, walked

1 from the speech with his son to the Capitol with the intent, as he
2 testified, to bolster senators whom he thought would disagree with
3 the election.

4 And in addition to just being there, he knew his son had
5 a weapon and he essentially -- not essentially, he gave his son
6 permission to climb the scaffolding at the observation deck on the
7 side of the Capitol. Your Honor, there's no way he can now come
8 back and say, well, I'll make certain that he'll do what the Court
9 says when he expressly gave him permission to start the very crime
10 that led to his son's indictment. His mother was right there, she
11 didn't try to stop him.

12 I mentioned some of these other instances, like the
13 trespassing. After that happened, the police went to his house,
14 they met with his father. That didn't stop any of his activity.
15 He said there are a half-a-dozen times where the police have come
16 to his house related to the ATV activity. That hadn't stopped his
17 son's behavior.

18 The noise ordinance that happened for blowing the horn,
19 which he initially said, well, you know, that noise ordinance,
20 it's difficult to tell about the duration and this teacher person,
21 she might disagree politically with my son, he was there, he was
22 present, that hasn't stopped his son's activity.

23 So we have zero reasons to believe that any conditions
24 that this Court sets, the father would have any meaningful
25 participation in enforcing those conditions. I would just say

1 it's not guesswork, your Honor, we're just looking at what's
2 happened in the past because that's the proof of what we have that
3 will likely happen in the future. It's been 14 or a dozen or so
4 instances, and it has all concluded with his son participating in
5 this insurrection.

6 His son was displayed yesterday during the impeachment
7 trial. He participated -- the Court asked the other day about
8 Government's Exhibits 8 and 9, those pictures where he assaulted a
9 US Capitol police officer with the initials GL, that was at -- we
10 believe it was at the door to the gallery of the Senate. And then
11 there is footage of him inside the gallery of the Senate. So we
12 can conclude that they went through that door. His son wound up
13 in the Senate chamber. He wound up right in the very place where
14 this impeachment trial is happening today. His parents and his
15 father and his lawyer have both admitted that he was where he was
16 not supposed to be.

17 To move toward the 3142 factors that the Court
18 considers, the weight of the evidence. It's on video. His lawyer
19 said he was not where he was supposed to be. His lawyer said he
20 carried a weapon into the Capitol. His father testified about
21 that weapon. His father is essentially an eyewitness to the
22 crime, and he testified that his son went in, again, with the
23 weapon.

24 So, your Honor, I -- our motion related to danger, I
25 believe, has been substantially supported by the testimony that

1 the Court has heard over these past couple of days, which our
2 position is there's not a condition or set of conditions to
3 reasonably assure the safety of the community. And I'll address a
4 couple of points that the defense raised earlier in the week.

5 I submitted to the Court some letters. Mr. Morgan made
6 an inference that they're the same typeface or font. I don't know
7 if that's an implication that the letters are fabricated. I
8 redacted -- because the agents haven't had time to interview those
9 folks, I redacted the addresses for them, but I can relate to the
10 Court that those came from different addresses and they're not
11 made-up letters.

12 THE COURT: I recognize that, Mr. Buchanan, but do
13 really the circumstances of this case rely upon that sort of
14 anonymous evidence? It's not like a CI in a drug case where the
15 ATF makes representations about the credibility. I don't know
16 anything about these folks.

17 MR. BUCHANAN: Sure. And the Court is perfectly fine
18 and I -- had we felt that strongly about it, we would have
19 identified those folks and potentially had them in. No, there's
20 plenty of evidence that comes from law enforcement sources about
21 Mr. Cua's behavior. In fact, this case was borne out of a law
22 enforcement review, law enforcement in Milton who saw -- because
23 they've interacted with him a dozen times, they saw his picture
24 on -- the pictures that came out of the siege from Government's
25 Exhibit 1, and they alerted the FBI that, hey, we know this

1 person. And then a subsequent investigation took place and the
2 review of the social media.

3 And I mentioned earlier, and I believe I did with the --
4 with Mr. Cua, the father, this case is not about a neighborhood
5 squabble. We can take the neighborhood squabbling part out of it.
6 My focus here and my emphasis to the Court is Mr. Cua's
7 interaction with law enforcement in terms of curtailing and
8 watching his behavior, because that's what the Court needs to
9 consider in analyzing whether or not he's a candidate for bond,
10 and that's the evidence that I would point to. These interactions
11 which his father testified to, he didn't deny that they happened,
12 but the volume of it and the lack of a change of behavior is why I
13 highlight all these instances to the Court. And that's --

14 THE COURT: Why isn't home incarceration and not
15 allowing him to be on the Internet or communicate or view any
16 social media, why isn't that sufficient to keep him from
17 reviolating?

18 MR. BUCHANAN: I didn't catch the last --

19 THE COURT: To keep him from reviolating.

20 MR. BUCHANAN: Your Honor, I don't believe that home
21 incarceration will work because he is an 18-year-old who's
22 homeschooled. And so this case did not arise out of him traveling
23 or going different places. It's simply these things that he has
24 ingested, not just from the Internet.

25 He said that -- Mr. Cua testified that he believes some

1 of this came from him. He acknowledged that he bears some
2 responsibility for his son's belief structure and then the actions
3 that arose out of those.

4 And so absent the Internet, absent going to any rallies,
5 his parents are still there and so I don't believe they're
6 suitable custodians. And I don't believe that just removing him
7 from the Internet removes him from these influences that drove him
8 to commit this activity.

9 THE COURT: Well, but wouldn't locking him up be
10 effectively the same? I mean, he won't have access to the
11 Internet or social media sitting in the DC jail or wherever they
12 hold them? In DC they used to hold them in Loudoun, but I don't
13 know where they handle them now.

14 MR. BUCHANAN: No, your Honor, it sounds like the
15 alternative would be he would remain in the custody of his
16 parents. And I think that the custody of his parents, as his
17 father testified, has led to some of this activity. And so I
18 don't think that that is a suitable place for him. And that's
19 based on his father's testimony and his father and his mother's
20 witness to these other activities that have happened that have not
21 sort of curtailed any behavior.

22 Your Honor, for those reasons the United States moves
23 for Mr. Cua's detention while this matter is pending trial in the
24 District of Columbia.

25 THE COURT: Before you sit down, talk to me about the

1 *Bates* issue.

2 MR. BUCHANAN: Sure. Your Honor, I do not believe there
3 is a *Bates* issue. If the Court is familiar with our motion for
4 detention, the United States has moved to detain Mr. Cua pursuant
5 to 18 USC, 3142(e) and (f). 3142(e) and (f) are the standard
6 provisions under which we move for detention. 3142(f) notes that
7 we can move for detention upon a motion by the government in a
8 case that involves, (e) notes, any felony that is not otherwise a
9 crime of violence that involves a minor victim, or that involves a
10 possession or use of a firearm or destructive device as those
11 terms are defined in 921; or any other dangerous weapon.

12 I believe that the charge alleges that Mr. Cua went into
13 the United States Capitol with a dangerous weapon. The testimony
14 from this hearing established by his father said that he saw him
15 with that weapon heading into the Capitol. I believe that's more
16 than sufficient for us to make this motion.

17 And further, your Honor, a reading that Ms. Parmer
18 suggests that, you know, a case is not eligible for detention
19 unless there's a crime of violence charge, that just doesn't
20 square with the statute. There are many times in which there are
21 folks who are not accused of crimes of violence but pose dangers
22 to the community or flight risks in which this Court has found
23 that they should be detained. You don't have to allege an
24 enumerated crime of violence to argue that a person is a danger to
25 the community, and so that has no impact on the United States

1 motion for detention.

2 THE COURT: Ms. Parmer or Mr. Morgan.

3 MS. PARMER: Your Honor, just briefly on the *Bates*
4 issue, I was going off of the filed motion for detention which
5 cited 3156, which does lay out the definitions of crime of
6 violence, but I think my time is much better used by saying that
7 even if Mr. Cua is a danger, there are certainly conditions that
8 you can craft to assure the safety of the community in this case.

9 I understand the government says that my client has been
10 unresponsive to instructions from law enforcement. And I think
11 that argument would have much more merit and strength if during
12 all of these interactions we saw a pattern of citations, arrests.
13 We haven't. And here there's one citation, one citation. I think
14 if there truly were solid and strong bases for the police to give
15 him some sort of document that alleged an infraction, they would
16 have.

17 And we do have the horn honking violation. And what
18 happened is my client got a citation for municipal code ordinance,
19 and he called the Court and they said come to the police station
20 to pay it. He went with his father to pay it. He was arrested by
21 the FBI. His father watched that and then paid the ticket. So I
22 do think they're responsive from law enforcement. You heard
23 testimony from his father that he backs the blue.

24 You've seen 50 pages of character letters that describe
25 him as respectful and as somebody who does respect police in

1 particular, including a letter from a former FBI agent that I
2 think couched many of those interactions in a fair and accurate
3 light.

4 Pretrial services recommends release in this case. And
5 I think a lot of that goes to, again, what those letters show,
6 that my client is not a risk of danger, or even if he is, that we
7 can craft conditions. And I think that goes to the fact that he
8 is drug free, he has never smoked a cigarette in his life, he has
9 never had a sip of alcohol in his life, he has absolutely no
10 mental health history. He, I think compared to many 18-year-olds,
11 is arguably stable and arguably moral and ethical and does believe
12 I think in doing right in respecting authority.

13 You heard from his church that he's tithed over \$400 in
14 the past year. These things give the Court confidence that with
15 conditions and with the proper amount of terms and a Court
16 document, an order that says what he has to do, that this is the
17 type of 18-year-old who will do it.

18 I also think it's incredibly important to make sure that
19 everyone understands the distinction between a social media post
20 and a private direct message.

21 THE COURT: But the Court doesn't understand the
22 difference at all. I mean, really, I don't understand the
23 difference between posting to the world violent revolutionary
24 thoughts and just stating it to another person. It's the fact
25 that it's stated. It doesn't make a difference what the forum is.

1 MS. PARMER: My argument, your Honor, is simply that
2 this goes to whether his father and mother are suitable people to
3 release him to. And I think if he -- if they knew that he was
4 posting those things and they took him to this rally on
5 January 6th, we would be in a far different situation than we are
6 because they never saw those private messages. And you heard from
7 Mr. Cua, his father, that had he been aware of any of that, which
8 he was not, he never would have taken him. And I think it goes to
9 the custodian piece rather than to an argument that, oh, we don't
10 consider them simply because they're private.

11 And in terms of the complaint, what we saw was these
12 posts on Parler are sharing the ex-President's Tweets, I think
13 that that is telling as well. And we heard from Mr. Cua, his
14 father, that he does feel manipulated and duped and does not
15 believe the election was stolen. And I think it's relevant that
16 there is this arguable paradigmatic shift with this family.
17 They've been through something, and who they were and what they
18 thought and what they believed before and now is different.

19 And I believe his testimony was credible. And that is
20 why you can craft conditions to release this child to his parents
21 because his parents have changed. And what his father said I
22 thought was very compelling about feeling as though he was misled
23 by leaders and how it's shifted his entire philosophy and view of
24 politics. And that was very powerful to me. And I think that's
25 why pretrial services agrees that releasing my client into the

1 custody of his parents is sufficient. And we can craft the least
2 restrictive conditions, which may be a complete lockdown, which
3 may be an entire band on Internet, social media, whatever the
4 Court sees fit.

5 But when you have an 18-year-old who has absolutely no
6 criminal history but for a paid citation for municipal code
7 violation, who is active in his church, who has submitted 50 pages
8 of character letters that attest to his morals and his habits, who
9 stays away from drugs and alcohol, who overall I think is very
10 dissimilar to the majority of 18-year-olds and who has a lot of
11 potential to learn and grow from this and not have this be what
12 defines the rest of his life, we can follow 3142's mandate that he
13 shall be released with the least restrictive conditions, which I
14 believe is exactly what has been shared from the pretrial services
15 report and all of the evidence before the Court. You can find his
16 conduct completely unpatriotic and completely reprehensible and
17 still have a ruling that comports with the law.

18 Thank you.

19 THE COURT: Mr. Buchanan.

20 MR. BUCHANAN: A couple of things, your Honor.

21 We keep having these references to he supports law
22 enforcement. I provided Ms. Parmer and Mr. Morgan with another
23 conversation. December 24th he says to a friend: I truly hate
24 Milton Police.

25 This person responds and says: Are the Alpharetta

1 Police the good ones?

2 Mr. Cua says: From my experience, yes.

3 He goes on to say: Milton Police are pieces of shit.

4 January 7th he's in a conversation and someone says to
5 him, the cops should have joined in.

6 He says, that's what I fricking told them. Mr. Cua says
7 this.

8 And then the other person says this: We're literally
9 fighting for them.

10 Mr. Cua: One cop was about to cry.

11 Mr. Cua: We were screaming at them to join us.

12 Your Honor, it's not just the rhetoric. As I mentioned,
13 in the sort of explosive rhetoric in November he said he was
14 trying to buy a gun under the table.

15 And in December of '20 he says: We can storm the
16 Senate, House. I keep saying bring guns.

17 That's not political speak, that's planning. And he
18 followed through on the planning. He went up to DC, his parents
19 went with him, and then he committed multiple felonies there. And
20 so the idea that, you know, he -- this is some type of learning
21 experience and this is consequential and he's learned from it, the
22 danger he poses has not been mitigated. The danger that he poses
23 I believe is mitigated with him in custody.

24 And so I wanted to respond to this idea that some of the
25 language and the rhetoric is sort of politically based because

1 it's not. This is actionable speak that is supported by the
2 actions that he's taken.

3 THE COURT: First of all, for the record, I find that
4 the -- that the charges constitute a crime of violence, not only
5 because *Bates* says that a charge under 18 USC, 111 is a crime of
6 violence, 111(a), but also other cases have held that as well.

7 And that includes the *Kanahele* case in the District of
8 Hawaii, the cite of which I used to have and now I don't.
9 *Kanahele*, K-A-N-A-H-E-L-E, 951 F. Supp, 921, 926.

10 And also *United States v. Perea*, P-E-R-E-A. That's a
11 District of New Mexico case, 2010, West Law 2292419. That's a May
12 of 2010-case. And it cites that the 111(a)(1) charge has an
13 element as to the use, attempted use or the threatened use of
14 physical force against the person or property of another.

15 So regardless of the indictment, the criminal complaint,
16 which is what started this proceeding, satisfies that.

17 (Noise interruption)

18 THE COURT: I need quiet. Thank you.

19 This is a very unusual case because, you know, we have a
20 lot of really serious, a lot of really, really dangerous people
21 who show up here in federal court. I also have a whole lot of
22 folks who don't have parents come in to federal court when they're
23 sitting at that table over there. But I have to say that this is
24 the first time in a number of years in a non-family drug case
25 where the parents were maybe not instigators but aiders and

1 abettors and didn't take steps to stop their child from going off
2 the rails. That's one of the really, really problematic aspects
3 of this case.

4 It was not very credible to me that Mr. Cua, Sr., didn't
5 see what was happening in that march from the ex-President's
6 speech to the front of the Capitol and how the people were heated
7 and how some were dressed in paramilitary gear. And his son is
8 carrying a weapon. And his son wants to get closer and climb up
9 on a scaffold. It's not his scaffold to climb up. And, yet, go
10 right ahead. And that's really troubling because Mr. and Dr. Cua
11 are being proposed as custodians. I've rejected custodians far
12 less involved in the criminal conduct of the defendant.

13 And Mr. Cua says that they were misled by leaders.
14 Well, Mr. Cua is supposed to be the lead, they're the parents.
15 And there was no parenting involved here, nobody who said tone it
16 down.

17 So what I'm confronted with here is not a speech case,
18 because speech is relevant just because it shows what Bruno Cua's
19 mindset was. His mindset was pretty severe beginning in December
20 trying to obtain an AR weapon under the table, saying that he's
21 going to -- and that was in November, that this is going to be a
22 war; I don't want to watch, I want to fight.

23 Already on December the 22nd he said he was going on the
24 6th and we can storm the fricking Senate or House. Bring guns.
25 Holding signs is useless.

1 December the 30th, we're going to take back what's ours.

2 On January the 6th, I'm not sure if this is before or
3 after, but it must be after because it said, made them wish they
4 were in hell. Attacked the swamp rats. Peaceful protests don't
5 work. Going to fight like the founding fathers.

6 January the 8th, supposedly when the scales fell off of
7 the eyes, our fight is far from over, I will lay down my life.

8 January 9th, I don't care, I want a bloody war, I'll be
9 on the front lines and burn the place to the ground. The Capitol
10 is just the beginning of the revolution.

11 Justice Jackson once famously said in a dissent that the
12 Constitution is not a suicide pack. And, yet, does this case
13 involve someone who has been arrested a number of times, who
14 engages in violent behavior, assaultive behavior, anti-social
15 behavior, things of that nature? No. But in part it's more
16 serious, because what the defendant was involved in was
17 effectively an attempt to overthrow the lawful processes of the
18 United States. And now we're sitting here saying, well, darn, he
19 really didn't mean any of that, but that's what his mindset was.
20 And his mindset continued after the 6th when there was no
21 evidence, even when the ex-President said, go peacefully, we're
22 still hearing talk from this defendant of revolution, I want to
23 fight.

24 And I didn't hear any consequences, zero consequences
25 from the parents of the conduct of their son. Zero. So they are

1 not effective custodians because they're after-the-fact mea culpas
2 ring hollow because they exercised no parental consequences on
3 their child when they realized that their child had engaged in
4 counter-constitutional behavior.

5 And these were not spontaneous, youthful actions of a
6 misled individual. The character references that were submitted
7 talk about his maturity beyond his years, his respectfulness. So,
8 you know, he's already succumbed to the false statements of his
9 superiors, of his so-called leaders, and I don't see where
10 anything that I say is going to convince him that I'm not part of
11 the problem.

12 So the parents are not an adequate custodian because I
13 haven't heard anything from the parents that lead me to believe
14 that I have confidence in them to do what a custodian does, which
15 is to pick up the phone and call pretrial services or the court
16 and say he's done something that he's not supposed to do. They've
17 done nothing since January the 6th other than to say we were
18 misled. So there might be something but they have not been
19 proposed to me.

20 So I find that based on his pre- and post-activity in
21 this case, Mr. Cua is a danger, and that there are no conditions
22 or set of conditions that have been proposed that will reasonably
23 assure the safety of the community; therefore, I'm detaining
24 Mr. Cua and I am moving him to the District of Columbia.

25 To the extent that I haven't done so already, pursuant

1 to the Due Process Protections Act and the Federal Rule of
2 Criminal Procedure 5(f), the government is ordered to comply with
3 the disclosure obligations required by *Brady v. Maryland*, and to
4 provide all materials and information that are arguably favorable
5 to the defendant as to either guilt or punishment in compliance
6 with the obligations under *Brady*, *Giglio* and their progeny.
7 Exculpatory material as defined in *Brady* and *Kyles v. Whitley*,
8 shall be provided sufficiently in advance of trial to allow the
9 defendant to use it effectively, and exculpatory information is
10 not limited to information that would constitute admissible
11 evidence.

12 The failure of the government to comply with its *Brady*
13 obligations in a timely manner may result in serious consequences,
14 including, but not limited to, the suppression or exclusion of
15 evidence, the dismissal of some or all counts, adverse jury
16 instructions, contempt proceedings; or other remedies that are
17 just under the circumstances.

18 Also to the extent that I didn't advise Mr. Cua of his
19 Rule 20 rights, because I was sort of struggling with the mask the
20 other day, he has a right to resolve his case that's pending in
21 the District of Columbia here in this district. And if the US
22 Attorney's Office in this district and the US Attorney's Office in
23 the District of Columbia agree, he intends to plead guilty to the
24 offenses charged against him in the District of Columbia, this
25 case would be transferred here and assigned to a United States

1 District Judge, if it was a felony. And if the district judge
2 accepted his guilty plea, then the judge would impose sentence and
3 enter judgment against him.

4 The fact that I have told you this is not a hint,
5 suggestion, advice, directive or order that you plead guilty.
6 I know that the government has presented evidence here. The
7 standard here is a lot less than the government has to prove at
8 trial and, of course, it goes in front of a jury. Nobody on this
9 earth can cause you to plead guilty. You have an absolute right
10 to plead not guilty, demand a trial with a jury of your peers, and
11 that is your right. And you should discuss whether you want to
12 exercise your Rule 20 rights with your fine lawyers here in this
13 district, and I know you have counsel in DC, and discussing it
14 with them. And you can always exercise that right in the future.
15 But, again, don't take any hint or suggestion that I'm telling you
16 what to do because I'm not and I can't. Federal law requires that
17 I tell you that, so I'm telling you.

18 Anything else in this matter?

19 MR. BUCHANAN: Not on behalf of the United States, your
20 Honor.

21 MS. PARMER: Not on behalf of the defendant, your Honor.

22 THE COURT: Mr. Cua, you're remanded to the custody of
23 the Marshal pending removal to the District of Columbia.

24 (PROCEEDINGS REPORTED WERE CONCLUDED AT 4:44 P.M.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by electronic equipment and transcribed by me in the case aforesaid.

This the 17th of February, 2021.

Penny Pritty Coudriet



PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER