

UNITED STATES DISTRICT COURT

DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,	: Criminal No. 21-cr-40 (TNM)
	: :
v.	: :
	: :
PATRICK MCCAUGHEY III,	: :
	: :
Defendant.	: February 9, 2021
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REPLY TO GOVERNMENT’S OPPOSITION TO MOTION FOR RELEASE ON BOND

The Defendant Patrick McCaughey III respectfully submits the following in reply to the government's "Omnibus Opposition" brief.

The government cited a video in support of its claim that Mr. McCaughey assaulted MPD Officers Hodges and Foulds. (See, Gov't Omnibus Opposition, Footnote 1, <https://www.youtube.com/watch?v=qc0U755-uiM>). A review of that video, however, appears to show (a) the defendant using a defensive shield, *defensively*, and (b) that the crowd of untold dozens behind Mr. McCaughey was chanting "Heave, Ho" or words to that effect, as it pressed the crowd of people, which included Mr. McCaughey, toward the Capitol doorway. And that the crowd was doing so mere moments before MPD Officer Hodges sounded to be in significant distress as he was squeezed inside of a door jamb.

Moreover, the fuller picture of Officer Hodges' predicament that this video provides supports the defense assertion that it was the pressure of the crowd behind Mr. McCaughey – and not Mr. McCaughey himself by some miraculously Herculean burst of strength – that caused Officer Hodges to be momentarily stuck

in that doorway. Throughout the video, Mr. McCaughey can be seen to be using the defensive shield as it was designed to be used, for defense, as officers continually swung their batons at him and others, and that was the position the shield was still in when Officer Hodges was pinned by the force of that mass of protestors.

Finally, the video and audio in that clip, after Officer Hodges frees himself, provide further support for the innocent nature of Mr. McCaughey's mindset, as he is clearly: (a) seen reaching over the defensive shield to lower Officer Hodges' protective face shield – just after the officer was assaulted by an apparently unknown 3rd party; and (b) heard calling Officer Hodges' compadres to alert them to the fact that Hodges was in need of assistance. That is hardly conduct consistent with the picture painted by the Government in both the Indictment and its subject opposition papers.

In sum, Mr. McCaughey is a young man who, having heretofore lived a spotless existence, decided to do a most American thing – to protest and petition his government for redress for what he and millions of other Americans perceive to be legitimate grievances about the Presidential Election. In the process, he clearly got “too close to the action” and he has suddenly found himself in jail, unable even to have a secure conversation with undersigned counsel for going on three (3) weeks now.¹

¹ Counsel has tried, to no avail, to have a secure conversation with Mr. McCaughey at all 3 prison facilities at which he has thus far been housed, to no avail. Covid19 or no Covid19, this inhibition on the Constitutional right to counsel is unacceptable, and provides still more urgency for Mr. McCaughey to be released while this matter is pending - so that he can meaningfully defend what we believe is a truly defensible case. Notably, this case is more akin to a typical municipal “on-site”

Most importantly, there is nothing in the record to support a fear, or even a lingering concern, that Mr. McCaughey will somehow drive to D.C., or anywhere else, and engage in a protest-turned-violent in the event he is released on the conditions proposed. He is not a part of any organized groups that tend to protest or engage in violence; there is no indication that he had any plan to do anything other than exercise his rights under the very first amendment to our Constitution, side by side with his father;² he has absolutely no prior involvement with the criminal justice system; the previously submitted character letters paint a vivid picture of Patrick as a kind, gentle young man; and there is no reason to believe there will ever – or at least during the pendency of this case – be another confluence of events that would lead to an event like that of January 6.

Accordingly, and for the reasons set forth in the original motion, Mr. McCaughey respectfully requests that the Court accept his substantial bond proposal and to order his release pending a resolution of these charges.³

arrest than it is to the usual federal criminal matter, *i.e.*, this is not a situation where federal authorities have gathered evidence via subpoena and grand jury testimony for months on end and then sought indictment. The defendant was arrested a mere 13 days after the alleged incident(s).

² Pursuant to warrant, the government has had possession of all of Mr. McCaughey's electronic devices since his arrest on 1/19/21; surely if there were any indication that he had even an inkling of a plan to engage in any kind of violence, such evidence would have been a part of the government's opposition submission.

³ Counsel has reviewed the district's Pretrial Services Report in this matter; however, on information and belief, Pretrial Services did not have the opportunity to interview Mr. McCaughey or any of the proposed sureties / lienors. For that reason, counsel respectfully requests that the Court also review the more comprehensive Pretrial Services Report prepared in the Southern District of New York before Mr. McCaughey's initial presentment in that district. (Case No. 7:21-mj-791)

Dated: Stamford, Connecticut
February 9th, 2021

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed and served electronically on all parties of record, on this 9th day of February in the year of our Lord 2021.



Lindy R. Urso