

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

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| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | Case No. 21-cr-286 |
| | : | Chief Judge Beryl A. Howell |
| GRADY DOUGLAS OWENS, | : | |
| | : | |
| Defendant. | : | |

**GOVERNMENT’S RESPONSE TO DEFENDANT’S MOTION FOR REVOCATION OF
DETENTION ORDER PURSUANT TO 18 U.S.C. § 3145(b)**

The United States, by and through its attorney, the Acting United States Attorney for the District of Columbia, respectfully submits this Response to Defendant’s Motion for Revocation of Detention Order Pursuant to 18 U.S.C. § 3145(b) (ECF No. 13). The government respectfully opposes the Defendant’s motion and asks that the defendant, Grady Douglas Owens, remain detained pending trial.

PROCEDURAL HISTORY

On March 30, 2021, the defendant was charged by complaint with: 1) 18 U.S.C. § 111(a) and (b) - Assault on a Federal Officer or Person Assisting a Federal Officer; 2) 18 U.S.C. § 231(a)(3) - Obstruction of Law Enforcement During Civil Disorder; 3) 18 U.S.C. § 1752(a) and (b) - Unlawful Entry, Disorderly Conduct, and Physical Violence into/in/on Restricted Building or Grounds; and 4) 40 U.S.C. § 5104(e)(2) – Violent Entry and Disorderly Conduct on Capitol Grounds.

On April 1, 2021, at the defendant’s initial appearance in the Middle District of Florida, the government orally moved for the defendant’s detention pending trial pursuant to § 3142(f)(1)(A). Magistrate Judge Daniel C. Irick presided over a detention hearing on April 2, 2021. After hearing the proffers of the government and the defense, as well as statements from a proposed

third party custodian, Magistrate Judge Irick considered the reasoning set forth in *United States v. Munchel*, 991 F.3d 1272 (D.C. Cir. 2021) and found “by clear and convincing evidence that no combination of conditions the Court can set will reasonably assure the safety of the community or any other person,” and ordered the defendant held pending trial. *See* Exhibit 1, April 2, 2021 Detention Hearing Transcript at 30.

On April 7, 2021, a federal grand jury returned a six-count indictment against the defendant resulting from his conduct on January 6, 2021. The indictment charged: one count of Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); one count of Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon and Inflicting Bodily Injury, in violation of 18 U.S.C. § 111(a)(1) and (b); one count of Disorderly and Disruptive Conduct in a Restricted Building or Grounds using a Dangerous Weapon, in violation of 18 U.S.C. § 1752(a)(2) and (b)(1)(A) and (B); one count of Engaging in Physical Violence in a Restricted Building or Grounds using a Dangerous Weapon, in violation of 18 U.S.C. § 1752(a)(4) and (b)(1)(A) and (B); one count of Impeding Passage Through the Capitol Grounds or Buildings, in violation of 40 U.S.C. § 5104(e)(2)(E); and one count of Act of Physical Violence in the Capitol Grounds or Buildings, in violation of 40 U.S.C. § 5104(e)(2)(F).

FACTUAL BACKGROUND

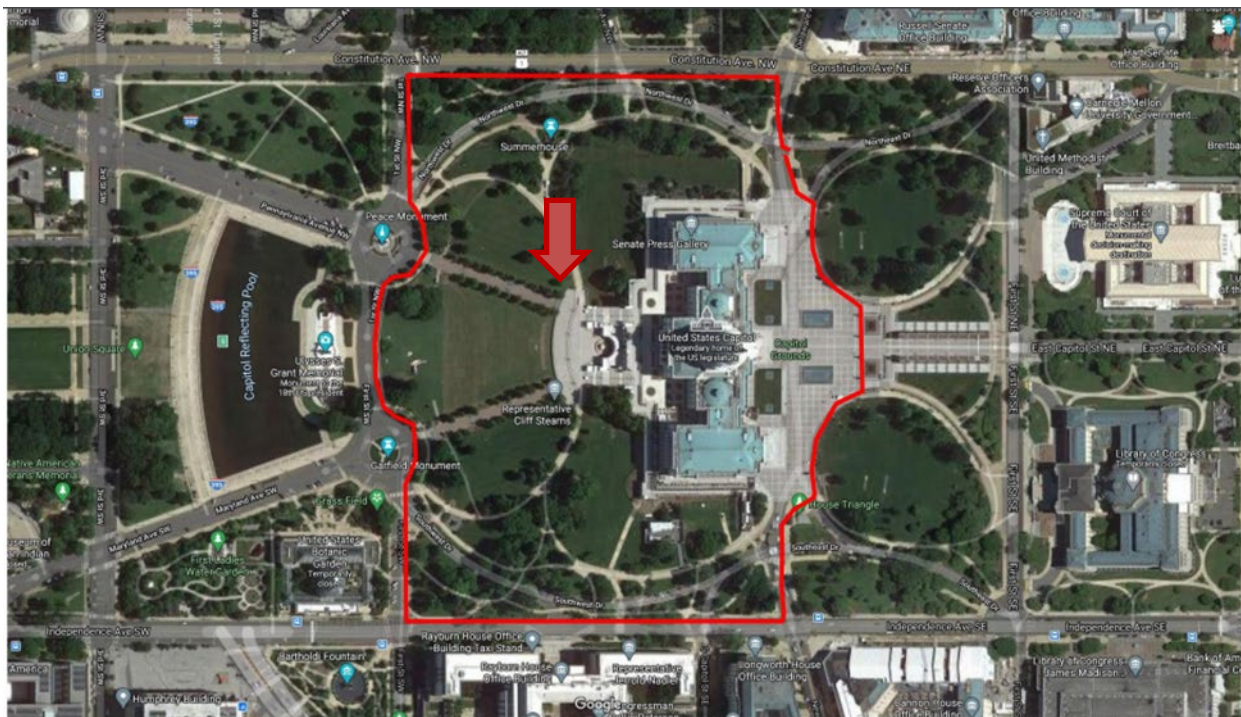
This Court is no doubt familiar with the factual background related to the attack on the United States Capitol earlier this year. Briefly, at approximately 2:00 p.m. on January 6, 2021, individuals in a large crowd that had gathered on the Capitol grounds forced their way through, up, and over temporary and permanent barricades in place around the exterior of the U.S. Capitol Building. The crowd moved past officers of the United States Capitol Police (“USCP”), and advanced to the exterior façade of the building. They soon breached the Capitol, itself. The

individuals were not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by the USCP or other authorized security officials.

As the Capitol was breached, USCP requested assistance from the Metropolitan Police Department (“MPD”) and other law enforcement agencies in the area to protect the Capitol, keep more people from entering the Capitol, and expel the crowd that was inside the Capitol. Multiple MPD officers and other law enforcement officers came to assist the USCP with the breach.

The victim in this case, MPD Officer C.B. and one of the witnesses, MPD Officer P.K. were amongst those MPD officers who were directed to report to the U.S. Capitol to assist the U.S. Capitol Police in their duties to maintain the security of the building and grounds. At approximately 1:53 pm, Officers C.B. and P.K., along with their colleagues, made their way through the west side of the Capitol grounds on their way to the lower west terrace tunnel area of the Capitol. *See* Exhibit 2, P.K. Body Worn Camera (“BWC”).¹ They were dressed in full tactical gear and their uniforms were clearly marked in large white letters with “Metropolitan Police” on their backs and “MPDC” on their helmets. *Id.* They displayed badges on the front side of their uniforms. As the group moved through the crowds, people began berating them screaming, “Here come the storm troopers!” (*Id.* at 1:48:49), “Traitors!” (*Id.* at 1:59:00, 1:59:20), and “You’re one of us!” (*Id.* at 1:59:39), among other things. As the crowd grew, officers had to begin to physically move individuals in order to continue their progress toward the lower west terrace area. *Id.* at 1:59:45. The officers’ approximate physical location during the relevant time period is denoted below by the red arrow in the ariel map of the Capitol:

¹ Exhibit 2 is BWC video that will be provided to the Court and defense counsel via USAFx for viewing.



At approximately 1:59:56, Officer C.B. is seen pushing a man in a maroon hooded jacket to the right of the screen. *Id.* at 1:59:56. Just beyond the man who is pushed aside, the defendant can be seen in a red jacket and black knit cap holding a flag and a skateboard. *Id.* at 1:59:58. The



defendant himself does not appear to have been pushed or hit by the officers. He further has a direct view of officers wearing their clearly marked uniforms. Nevertheless, the defendant raises the skateboard up and over his head in a wind-up and swings it down hard on Officer C.B.'s head. *Id.* at 1:59:59-2:00:02.



A physical altercation ensues with the defendant, as well as several crowd members. *Id.* at 1:59:59-2:00:42. Officers spend time re-grouping after the altercation. *Id.* While the officers attempt to get their bearings, the defendant does not back away or exhibit any remorse or concern for his behavior—instead, he continues to yell at officers including, among other indiscernible statements, “How do you live with yourselves!?” *Id.* at 2:01:00. He also points at the officers menacingly and makes obscene gestures. *Id.* at 2:01:01-2:01:11.



Approximately two to three minutes after the assault and the resulting altercation with the crowd, officers are finally able to continue towards the lower west terrace area.² *Id.* at 2:01:48.

ARGUMENT

Because the defendant is charged with a crime of violence—assault on a federal officer while using a dangerous weapon and inflicting bodily injury in violation of 18 U.S.C. § 111(a) and (b)—the government properly sought detention. 18 U.S.C. § 3142(f)(1)(A). The defendant does not dispute the crime-of-violence designation or the government’s ability to seek detention. Nevertheless, if, as here, a defendant is ordered detained, the defendant may file a motion for revocation of the order with the court having original jurisdiction over the offense. 18 U.S.C. § 3145(b). The court having original jurisdiction over the offense shall promptly decide the motion. *Id.* Although the D.C. Circuit has not yet specifically addressed the issue, it appears that the review of the magistrate judge’s order of release is *de novo*. *United States v. Little*, 235 F. Supp. 3d 272, 277 (D.D.C. 2017). Despite the *de novo* review, this Court can examine the lower court’s findings and reasoning and may find its analysis persuasive. Finally, the reviewing court has discretion to call witnesses, review transcripts, or proceed by proffer. *Id.*

At the detention hearing, Magistrate Judge Irick considered the four factors under § 3142(g) that should be addressed and weighed in determining whether to detain a defendant pending trial: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) his or her history and characteristics; and (4) the nature and seriousness of the danger to any person or the community that would be posed by his or her release. Exhibit 1 at 21-30; *see also* 18 U.S.C. § 3142(g). To his credit, Magistrate Judge Irick further spent a considerable amount of time addressing the recent District of Columbia Circuit Court opinion in

² At this time there is no evidence that the defendant entered or trespassed into the Capitol building, itself.

Munchel to aid in his ultimate detention determination. *Id.* His thoughtful analysis remains applicable here.

Ultimately, this Court must consider whether conditions exist that the defendant will abide by and that will reasonably assure both his appearance as required and the safety of the community. As the defendant points out, the government is not asserting that he is a flight risk. Thus, this Court should consider detention only under the dangerousness prong of the analysis under the four aforementioned factors. *See* 18 U.S.C. § 3142(g).

In consideration of these factors, the government respectfully submits that there remains no conditions or combination of conditions which can effectively ensure the safety of any other person and the community.

1. Nature and Circumstances of the Offense Charged

During the course of the January 6, 2021, siege of the U.S. Capitol, multiple law enforcement officers were assaulted by an enormous mob, which included numerous individuals with weapons, bulletproof vests, and pepper spray who were targeting the officers protecting the Capitol. Although the defendant points out that he was “dressed casually” and wore “no body armor or tactical gear,” (ECF No. 13 at 4) as officers were making their way to the aid of other officers, he nonetheless violently assaulted one with a skateboard, smashing him in the head. In turn, a crowd that was already clearly on edge, turned against the group of officers resulting in an altercation between officers and a number of individuals. Those individuals included the defendant’s own father.³ Magistrate Judge Irick considered all of these facts in finding that this factor weighed in favor of detention. Exhibit 1 at 22-23.

³ The defendant’s father, Jason Douglas Owens, is currently also charged by way of criminal complaint because of his actions at the Capitol on January 6, 2021. *See United States v. Jason Douglas Owens*, 21-mj-376 RMM.

Further, the defendant is not only facing one felony count of violating 18 U.S.C. 111(a) and (b), he is also charged with one count of violating 18 U.S.C. 231(a)(3), and two counts of violation 18 U.S.C. § 1752(a) and (b)(1)(A) and (B). In total, he is charged with four serious felony offenses. Indeed, a violation of § 111(a) and (b) carries a maximum term of imprisonment of 20 years. There is no evidence that the defendant was at the Capitol for a peaceful protest. Instead, the video points to the conclusion that the defendant arrived ready for a fight. His attack on Officer C.B. was unprovoked, and after he struck Officer C.B., he didn't cower in fear and he certainly didn't back away in remorse. He instead stood his ground with the crowd and continued harassing and yelling at officers after having violently assaulted one.

As this Court has noted, "Grave concerns are implicated if a defendant actively threatened or confronted federal officials or law enforcement, or otherwise promoted or celebrated efforts to disrupt the certification of the electoral vote count during the riot, thereby encouraging others to engage in such conduct. These factors measure the extent of a defendant's disregard for the institutions of government and the rule of law, qualities that bear on both the seriousness of the offense conduct and the ultimate inquiry of whether a defendant will comply with conditions of release meant to ensure the safety of the community." *United States v. William Chrestman*, 2021 WL 765662, at *8 (DDC February 26, 2021) (Howell, C.J.). Here, the defendant did not just confront or threaten law enforcement officers, he smacked an officer in the head with a skateboard, seemingly for no real reason, and impeded the entire group's ability to do its job and help other law enforcement officers. Officer C.B. suffered a head injury, and his colleagues could have easily have been injured in the resulting melee, all as a result of the defendant's violent behavior.

2. Weight of the Evidence Against the Defendant

The second factor to be considered, the weight of the evidence, also fully weighs in favor of detention. As discussed above, the evidence against the defendant includes BWC from at least two different officers. The video evidence is objective and unwavering. The BWC corroborates the assault relayed by Officer C.B. and shows precisely how the defendant assaulted him. Finally, the defendant has been identified in photographs from January 6th by at least three separate people, including a family member.

In addition, the physical evidence recovered from the defendant's apartment, as well as his parents' home, corroborates his presence and involvement in the assault. Law enforcement executed a search warrant of the defendant's apartment in Florida when he was arrested and recovered a red jacket consistent with the jacket he is seen wearing in the BWC and photographs. Law enforcement also recovered a black and white checkered shirt at his parents' home in Blanco, Texas that appears to be the shirt he was wearing on January 6th. Finally, flight information indicates that the defendant flew with his father from San Antonio, Texas to the D.C. area on January 5th, and returned to San Antonio on January 7th. The evidence against the defendant is overwhelmingly strong, and like Magistrate Judge Irick, this Court should find that the weight of the evidence weighs significantly in favor of detention.

3. Defendant's History and Characteristics

The government recognizes the defendant's lack of criminal history and that many letters of support have and may continue to be presented on his behalf. The defendant has offered up a third-party custodian who, by all accounts, is willing and able to serve in such a capacity. Nevertheless, Magistrate Judge Irick observed that the defendant is an admitted marijuana user who is struggling with school. Exhibit 1 at 25-26. Most notably, though, on January 6th the

defendant ventured down a new and unchartered path making it undeniably clear that he is indeed capable of violent and assaultive behavior. He was recorded striking an MDC officer, who was dressed in full riot gear, in the head with a skateboard. While it may have been out of character, this Court now knows with a high degree of certainty that the defendant is not afraid to engage in violence against law enforcement. Even more concerning is that he was willing to do so while those officers were simply attempting to ensure that Congress was able to complete its official business. His actions and clear willingness to fight and obstruct law enforcement, weigh against his release.

4. Danger to the Community

The fourth factor, the nature and seriousness of the danger to any person or the community posed by a defendant's release, also weighs in favor of the defendant's detention. The charged offenses involve a violent assault that was intended to interfere with the officers' ability to enforce the law. The defendant used physical force against a law enforcement officer, while simultaneously inciting those around him. And he did so at a time when it was apparent the mob was on edge and that it needed only a spark to ignite a fire. While perhaps such behavior might not have been predicted prior to January 6th, the defendant has since proven that he possesses a true lack of impulse control combined with an absolute ability to engage in violent behavior. The nature and circumstances of the offense as summarized, *supra*, are particularly probative of the defendant's current and future danger to the community and he should be detained.

5. Impact of *United States v. Munchel*

On April 16, 2021, this Court specifically directed the parties to address the points set forth in *United States v. Munchel* issued on March 26, 2021 by the District of Columbia Circuit Court. Magistrate Judge Irick also attempted to address some of the concerns set forth in the *Munchel*

opinion. Exhibit 1 at 27-30. For example, in support of his order of detention, Magistrate Judge Irick focused on *Munchel*'s categorical distinction between those who assaulted police officers on January 6th and "those who cheered on the violence or entered the Capitol after others cleared the way." Exhibit 1 at 27. Here, Magistrate Judge Irick observed that the defendant assaulted an officer by striking him in the head with a skateboard. He further distinguished the *Munchel* defendants' behavior finding that in *Munchel*, the defendants "didn't harm anyone or didn't vandalize any property, really posed no threat without the group." *Id.* at 28. In contrast, Judge Irick noted, the defendant here "did harm someone, and his conduct would have been harmful without a group, and, again, the evidence I have is that he ratcheted up the group through his violence." *Id.*

On April 26, 2021, in the matter of *United States v. Scott Kevin Fairlamb*, 21-cr-120 RL District Court Judge Lamberth also acknowledged the categorical distinction between violent and non-violent January 6th participants set forth in *Munchel*. In granting the government's motion for detention pending trial, the court observed that, "if any crime establishes danger to the community and a disregard for the rule of law, assaulting a riot-gear-clad police officer does." *Fairlamb*, 21-cr-120, ECF No. 31 at 11. Judge Lamberth pointed out that "*Munchel* recognized that in the detention context, courts may rely on defendants' violent actions undertaken on January 6 in determining their future dangerousness." *Id.* at 12 (*citing Munchel*, 991 F.3d at 1283 (requiring individualized assessment but looking to violent conduct on January 6 as probative of future dangerousness)).

This case presents a very different set of circumstances than were present in *Munchel*, and its reasoning and analysis supports a finding of detention here. In *Munchel*, the Circuit Court observed that the defendants did not engage in any violence and were not involved in planning or coordinating. 991 F.3d at 1284. "The presence of the group," the court wrote, "was critical to their

ability to obstruct the vote and to cause danger to the community.” *Id.* The court observed, therefore, that it was not clear how the defendants remained a danger to “act against Congress” given that the specific circumstances of January 6th had passed. *Id.* Here, as Magistrate Judge Irick found, the defendant’s danger to the community is *not* a function of having been part of a larger group of individuals who were determined to stop the certification of the 2020 Presidential election. The defendant’s danger is the result of his willingness to strike a uniformed police officer in the head with a skateboard that he used as a weapon. Such danger is a function of the defendant’s individual characteristics, not the larger group. That willingness remains to this day and the defendant does pose a danger to the community pending the trial of this matter.

Finally, the defendant asks this Court to compare the current set of circumstances to a discrete set of other detention matters that resulted from the events of January 6th, including cases where the government chose not to seek detention. As Judge Lamberth explained, “The Bail Reform Act does not call for consideration of potential disparities between defendants. Instead, it calls for close analysis of the relevant factors and evidence in an individual case.” *Fairlamb*, 21-cr-120, ECF No. 31 at 18-19. Further, “the government’s failure to seek detention in one case does not doom its efforts to safeguard the community in another. The Bail Reform Act requires the Court to apply defendant-specific factors, not to judge dangerousness based on how the Executive exercised its prosecutorial discretion in distinguishable cases.” *Id.* at 19.

The facts, the circumstances, and the applicable law dictate the result in this case. Clear and convincing evidence supports a finding that the defendant is a danger to the community and that he should be detained pending trial and the final resolution of this matter.

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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| UNITED STATES OF AMERICA, | : |
| | : |
| Plaintiff, | : Case No.: |
| | : 6:21-mj-1286-DCI |
| | : |
| vs. | : |
| | : Orlando, Florida |
| GRADY DOUGLAS OWENS, | : April 2, 2021 |
| | : 10:03 a.m. |
| | : |
| Defendant. | : |
| - - - - - | -X |

TRANSCRIPT OF DETENTION HEARING
BEFORE THE HONORABLE DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

| | |
|------------------------|---|
| Counsel for Plaintiff: | Karen L. Gable US Attorney's Office Suite 3100 400 W. Washington Street Orlando, FL 32801 |
| Counsel for Defendant: | Karla M. Reyes Federal Public Defender's Office 201 S. Orange Avenue, Suite 300 Orlando, FL 32801-3417 |

Proceedings recorded by digital recording.
Transcript produced by computer-aided transcription.

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NO.

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P R O C E E D I N G S

THE COURTROOM DEPUTY: Case No. 6:21-mj-1286, United States of America v. Grady Douglas Owens.

Counsel, please enter your appearances for the record.

MS. GABLE: Good morning, Your Honor. Karen Gable on behalf of the United States. I'm appearing with Special Agent Jonathan Hannigan.

MS. REYES: Good morning, Your Honor. Assistant Federal Defender Karla Reyes on behalf of Mr. Owens, who is to my right.

THE COURT: All right. Good morning, everyone. We're here for a detention hearing in this matter. Is that right?

MS. GABLE: Yes, Your Honor.

THE COURT: All right. Is the Government ready to proceed?

MS. GABLE: We are, Your Honor.

THE COURT: And the defense?

MS. REYES: Yes, Your Honor.

THE COURT: All right. Government can proceed.

MS. GABLE: Your Honor, as I stated yesterday, we intend to proceed by proffer. We'll both proffer facts from the complaint affidavit, as well as the pretrial services investigative report.

So if I may, Your Honor. Your Honor, the defendant has been

1 charged in a criminal complaint with various offenses, the most
2 serious of which is assaulting a federal officer by using a
3 dangerous weapon or causing bodily injury to the officer on
4 January 6th of 2021. As set forth in the complaint, Your Honor,
5 the facts are that the defendant and his father attended the
6 events on January 6th together. They flew from Texas -- which
7 is where the defendant's parents reside and where the defendant
8 is from -- from Texas to Washington DC on January 5th. On
9 January 6th they attended the rally, the Stop the Steal Rally at
10 the Capitol -- or, you know, in DC and then made their way to
11 the Capitol. The defendant brought his skateboard with him.

12 As he and his father descended on the Capitol, they entered
13 the restricted area of the Capitol, which is included in the
14 complaint affidavit, and it's outlined on page 1. It's the red
15 area. Everything within the red area is the restricted area.
16 The defendant and his dad were about 25 yards from the west side
17 area of the Capitol steps. While they were there, the rioting
18 had erupted and rioters were unlawfully entering the Capitol.

19 Officer Boyle was part of a unit of MPD officers who were
20 dispatched to assist officers who were at the Capitol who were
21 actively engaged in trying to prevent rioters from unlawfully
22 entering the Capitol, as well as trying to gain control over
23 those rioters who had already unlawfully entered the Capitol.
24 Officer Boyle and his unit were in clearly marked uniforms, and
25 they were making their way through the crowd, through the back

1 of the crowd, to try to make their way up to the front of the
2 Capitol.

3 The defendant and his father were in that crowd, and as
4 Officer Boyle in the -- on that unit tried to make their way
5 through the crowd, the defendant took his skateboard and
6 intentionally -- and this is on video -- intentionally hit
7 Officer Boyle in the face area and the head area with his
8 skateboard causing serious injuries to Officer Boyle. He
9 sustained a concussion, and he also sustained injuries to a
10 finger. His father is also captured shoving police officers as
11 they were trying to make their way through the crowd.

12 And these rioters -- when the defendant struck the officer,
13 the video shows that it just ratcheted up all of the rioters
14 that he was with, and they really started to shove and interfere
15 with these officers in the lawful performance of their duties in
16 trying to make their way up to the steps of the Capitol to
17 assist other officers who were under assault by rioters and
18 trying to deal with that situation.

19 The evidence is strong in the case. As I, you know, said to
20 the Court, the defendant's actions are captured on video. But
21 at this point now three witnesses have identified the individual
22 who struck Officer Boyle as the defendant. And we also have the
23 plane tickets.

24 From the pretrial services report, Your Honor, I would
25 proffer to the Court that the defendant's parents live in Texas,

1 that he is here as a student. He has a passport. He has
2 traveled extensively to Belize, Bahamas, Honduras, Cayman
3 Islands, Guatemala, Mexico.

4 He is living in an apartment. His lease expires at the end
5 of this month on that apartment. He lives here alone. He is
6 single. He doesn't have any children.

7 He has what appears to be a part-time job. It says
8 "contracted." I think that's a contracted part-time employee.
9 But apparently he's not working very much, as he only earns
10 about \$300 a month.

11 He uses marijuana. The last time that he used marijuana was
12 three days prior to his arrest.

13 And I would further proffer that the maximum term of
14 imprisonment for the assault charge is 20 years.

15 So that's what I would proffer to the Court and then I will
16 argue.

17 THE COURT: Is the search warrant affidavit in this
18 case unsealed?

19 MS. GABLE: It's not.

20 THE COURT: Okay. So the defense doesn't have a copy
21 of that?

22 MS. GABLE: No. They don't have that.

23 THE COURT: Okay. Understood.

24 MS. GABLE: But they have the complaint affidavit,
25 Your Honor.

1 THE COURT: Let me hear from the defense.

2 MS. REYES: Your Honor, I would call David Green.

3 THE COURT: All right. Mr. Green, sir, if you would
4 come forward and stand in the witness box and be sworn.

5 THE COURTROOM DEPUTY: Please raise your right hand.

6 (DAVID GREEN, called by Defense, is sworn.)

7 THE WITNESS: I do.

8 THE COURTROOM DEPUTY: Please state and spell your
9 name for the record.

10 THE WITNESS: David Mallory Green.

11 THE COURT: How do you spell Green? How do you spell
12 Green?

13 THE WITNESS: Just like the color.

14 THE COURT: Okay. Sometimes it has an E. So I want
15 to be sure. You can have a seat, sir.

16 DIRECT EXAMINATION

17 BY MS. REYES:

18 Q Good morning, sir.

19 A Good morning.

20 Q How do you know Mr. Grady Owens?

21 A I am his great uncle.

22 Q And where do you live?

23 A 95 Hickory Tree Road, Longwood.

24 Q How long have you lived there?

25 A 23 years.

1 Q How long have you --

2 Do you have a relationship with Mr. Green?

3 A Yes.

4 Q And how would you characterize that relationship?

5 A Good. Good.

6 Q When was the last time you saw him?

7 A I believe it was probably two months ago.

8 Q Does he hail from Texas?

9 A Yes.

10 Q And prior to him starting college, was he living with you?

11 A He -- once he started school, yes, he lived with us.

12 Q For about how long?

13 A I believe about four to six months.

14 Q Did you hear Ms. Gable say that his lease is up coming in a
15 few weeks?

16 A Yes.

17 Q Are you aware if his parents are trying to secure housing
18 for him?

19 A I'm not sure, no.

20 Q In the event that they're unable to get another apartment
21 for him, would he be able to live with you?

22 A Absolutely.

23 Q And are you aware of the charges that he's been accused of?

24 A I am now.

25 Q Okay. Have you formed an opinion as to his character?

1 A Yes.

2 Q And what is that opinion?

3 A He's a good person.

4 Q Notwithstanding the seriousness of the charges, are you
5 still supportive of him?

6 A Yes.

7 Q Is your wife also present in the courtroom?

8 A Yes, she is.

9 Q And is she also supportive of him?

10 A Yes.

11 Q Okay. Would you -- have I explained to you what a
12 third-party custodian would entail?

13 A Yes.

14 Q And are you willing to serve in that capacity?

15 A Yes, I am.

16 Q Do you have any qualms in your ability to serve in that
17 capacity?

18 A No. No, I do not.

19 Q Do you believe that Mr. Owens would respect your authority?

20 A Absolutely.

21 Q Could you tell Judge Irick if you believe Mr. Owens is a
22 danger to the community?

23 A Yes.

24 Q Do you believe he's a danger to the community?

25 A No, absolutely not.

1 Q And why not?

2 A I know his character. He's a good person.

3 Q Do you have a DUI from 30 years ago?

4 A Yes, I do.

5 Q Okay. Do you have any other criminal convictions besides
6 tickets?

7 A No.

8 MS. REYES: Okay. I tender the witness, Your Honor.

9 THE COURT: Cross-examination?

10 MS. GABLE: No, Your Honor. I have none.

11 THE COURT: All right. Thank you, sir. You can step
12 down.

13 Any other evidence from the defense?

14 MS. REYES: Your Honor, I would move Exhibits 1
15 through 3 into evidence. I provided copies to Ms. Gable. One
16 is an e-mail from Mrs. Owens, and the other two are e-mails from
17 Full Sail University indicating his enrollment status and his
18 expected date of graduation based on his progress thus far.

19 THE COURT: All right. Any objection?

20 MS. GABLE: No, Your Honor.

21 THE COURT: All right. They'll be admitted, Defense
22 Exhibits 1, 2, and 3.

23 (Defendant's Exhibit Nos. 1, 2, and 3 were admitted into
24 evidence.)

25 MS. REYES: No other evidence or testimony, Your

1 Honor, just argument.

2 THE COURT: All right. Let me hear from the
3 Government.

4 MS. GABLE: Thank you, Your Honor. As the Court
5 knows, we are seeking detention under 18, 3142. In determining
6 release or detention in this case, Your Honor, the Court is to
7 consider factors that are listed under 3142(g).

8 First is the nature and circumstances of the offense,
9 including whether the offense is a crime of violence. So in
10 this case, Your Honor, the offense is a crime of violence. And
11 as we outlined during our proffer to the Court, the nature and
12 circumstances of the offense are quite serious. It takes a lot
13 for someone to use their skateboard as a dangerous weapon and to
14 hit an officer who was lawfully performing his duties, trying to
15 assist other officers during the riot on that day, to obstruct
16 that officer and to hit him in the head so hard that the officer
17 sustained a concussion and injuries as a result. So the nature
18 and circumstances of this case weigh in favor of detention, Your
19 Honor.

20 The weight of the evidence against the defendant is strong.
21 As proffered by the Government, the defendant's criminal actions
22 are captured on video, specifically the law enforcement
23 officer's body cam footage, as well as several individuals who
24 have identified the individual who struck the officer as the
25 defendant.

1 Regarding the history and characteristics of the person,
2 other than the conduct that he engaged in on January 6th of
3 2021, we would just note that he doesn't have strong ties to the
4 community. I understand that the defense has brought the
5 testimony of his great uncle who apparently is residing in the
6 area, but other than that, I mean, the defendant is living in an
7 apartment where the lease expires at the end of the month. He's
8 here to go to school.

9 It's clear that his ties really are in Texas, that that is
10 where his family is. He doesn't really have a job here. He
11 has -- he's not married. So his ties I would describe as
12 limited to the Middle District of Florida.

13 He appears to use marijuana on a regular basis, which,
14 again, is just another factor for the Court to consider
15 regarding his history and characteristics.

16 You know, and, finally, Your Honor, really for the
17 Government the biggest concern here is that the evidence is
18 strong, but it's the nature of the crime that was committed in
19 this case, that it was a crime of violence, and while I
20 understand we have the circumstances that occurred on
21 January 6th, those are serious, those were serious events, and
22 the defendant's conduct here is serious, and it does show that
23 he does present a danger, and we just don't think that the Court
24 can set any conditions that would reasonably assure the safety
25 of the community, given the defendant's actions on January 6th.

1 So therefore, Your Honor, we do ask the Court to detain the
2 defendant.

3 THE COURT: Are you familiar with *United States v.*
4 *Munche1*, which is the DC Circuit's very recent opinion
5 concerning the release or detention of defendants in these
6 cases?

7 MS. GABLE: I'm not familiar with the opinion, Your
8 Honor.

9 THE COURT: Okay. Well, I'm well familiar with it.
10 So I'll be discussing that in my decision.

11 But I'm happy to hear from the defense.

12 MS. GABLE: Okay. And what is the case, Your Honor?

13 THE COURT: It's United States Court of Appeals for
14 the District of DC. It's *United States v. Munche1*,
15 *M-u-n-c-h-e-1*. I have the slip copy of that. So I don't have a
16 Westlaw or other citation for it. It was issued on March 26th
17 of 2021, which I believe was last Friday, and it remanded the
18 District Court, a decision of detention, but also with a lot of
19 commentary on these cases, as well as the differences between
20 some cases and others.

21 And I'll just note that in *Munche1*, you know, the defendant
22 was detained by the District Court on dangerousness grounds, and
23 in that case there was no violent act by the defendant, and so
24 the Court seriously considered that issue. Here, we do have a
25 violent act. And the District of DC stated, and I'll give you

1 this one piece of it right now, that -- and this is a quote --
2 "In our view, those who actually assaulted police officers and
3 broke through windows, doors, and barricades and those who
4 aided, conspired with, planned, or coordinated such actions are
5 in a different category of dangerousness than those who cheered
6 on the violence or entered the Capitol after others cleared the
7 way. I see this defendant as being one of those who was engaged
8 in assaulting police officers, and he is of that different
9 category of defendants.

10 So I just -- I just give you that because I am persuaded by
11 this decision. I believe it's controlling in the DC circuit. I
12 don't know that it's controlling on me, although this case is a
13 DC case. It creates an interesting issue there. But it's
14 certainly persuasive to me. So I just -- I just give that to
15 both sides right now so you can consider it.

16 MS. GABLE: Thank you, Your Honor.

17 THE COURT: Ms. Reyes.

18 MS. REYES: Your Honor, I just pulled up the case.
19 May I have a brief opportunity to read it?

20 THE COURT: Sure. I will. Although, you know, I'll
21 say this is the kind of thing that I expect both sides to be
22 aware of. I mean, this was a widely published circuit decision
23 on exactly this issue. This is not a -- you know, this is a
24 widely publicized issue. This is something that could have been
25 easily -- the Court found this case on exactly this issue. And

1 I think the parties could as well. So I'll give you an
2 opportunity to read the case and a break, but, again, this is
3 something that should have happened before we got here.

4 We'll be in recess. You let me know when you're ready.

5 (Recess at 10:19 a.m., until 10:37 a.m.)

6 MS. REYES: Your Honor, thank you for the opportunity
7 to read *Munche1*. Ms. Gable and I have both had the opportunity.
8 I'm just going to begin with my argument first and then I'll
9 address *Munche1*, and just so that we have it for the record,
10 it's 2021 Westlaw 1149196.

11 THE COURT: Yeah. And I confirmed that it's a
12 published decision in the DC Circuit. So, you know, regardless
13 whether or not it's arguably controlling on me, it certainly
14 would be controlling upon the District Court that would review
15 any order I made.

16 MS. REYES: Thank you, Your Honor.

17 As noted in *Munche1* -- or as cited to in *Munche1*, but as the
18 Court is well aware, in *Salerno* the Supreme Court has indicated
19 that in our society liberty is the norm. The Government has
20 failed to prove by clear and convincing evidence that Mr. Owens
21 is a danger and by a preponderance of the evidence that he's a
22 serious risk of flight.

23 As it relates to the nature and the circumstances of the
24 offense, I do recognize that there's very serious -- in terms of
25 the weight of the evidence, as the Court knows, I have requested

1 a preliminary hearing to confront and challenge the Government's
2 evidence, and that hearing has been scheduled for next week.
3 But looking at the complaint, do I acknowledge the social media
4 accounts and the fact it's been sworn do by Special Agent
5 Hannigan.

6 I do believe that the history and characteristics of
7 Mr. Owens weigh heavily in favor of release. You have a
8 21-year-old. He just turned 21 last week. You have a
9 21-year-old with absolutely no prior criminal history. And his
10 arrest yesterday morning was without incident. They went to the
11 apartment that's listed in the pretrial services report. He
12 answered the door, and he was taken in without any issues.

13 He is here -- as noted in the pretrial services report, he's
14 a junior at Full Sail University in Winter Park. He has an
15 apartment that he's been living at for a year there, but he's
16 been in our community for approximately two years.

17 He is single. The Government is correct in that regard.
18 However, he does have a girlfriend who I expected to be here but
19 is not, but he is in a relationship.

20 He is a full-time student. So he doesn't have a full-time
21 job because he is a student. The employment that's mentioned in
22 the pretrial services report is correct. He does do that on a
23 part-time basis, especially now due to COVID.

24 As it relates, Your Honor, to Defense Exhibit 1, his mother,
25 she couldn't be here today due to travel, but she is completely

1 willing to provide an address to pretrial services report --
2 pretrial services, if the Court does find that release is
3 appropriate. They're actively looking to secure housing for
4 him.

5 As the Court can see in Defense Exhibits 2 and 3, he is
6 expected to graduate February of next year, and his education
7 has been paid in full. So my understanding is it's an
8 accelerated program. He's a junior this year, but he is on
9 target to graduate next year. So even though he doesn't have
10 deep-rooted ties to this community, the ties of his education, I
11 would believe -- I would suggest to the Court should be
12 compelling to find that he does have ties to the Middle District
13 of Florida.

14 THE COURT: I would note, though, that Defense
15 Exhibit 2 states that his original graduation date was pushed
16 back due to course failures and course withdrawals before he
17 reentered. So it seems that he was out for some time, and he's
18 had difficulty completing his educational program.

19 MS. REYES: I saw that too, Your Honor. I recognize
20 that.

21 David Green testified unrebutted under oath that he has
22 lived in our community, specifically in Longwood, for 23 years.
23 He knows his great nephew. He thinks highly of him.
24 Notwithstanding these charges, he's still supportive of him. He
25 traveled here. I was in touch with him last night. So he came

1 here as soon as possible. I would propose him as a third-party
2 custodian. I think he would be appropriate. Longwood and
3 Winter Park are, I would say, no more than a 30-minute drive.
4 And David Green has committed to serving in that capacity, and I
5 think he would be suitable, notwithstanding his DUI conviction
6 from 30 years ago.

7 The marijuana use is troubling because it's illegal, but
8 there are conditions that the Court can set to mitigate that.

9 As the pretrial services report indicates, he has no mental
10 health issues. He has no physical issues. He has no resources
11 to flee, even if he wanted to.

12 THE COURT: I do take some issue with that because --
13 two reasons. One, his means to commit this offense was his
14 father, right? So his father flew him in on January 5th and
15 flew him out on January 7th and, in fact, went there with him
16 and participated. So he does have means, though they're not on
17 the pretrial services report as being his personally. Also, the
18 letter I received from his mother states that they are fully
19 financially responsible for him and will continue to be so. So
20 really the means he has to flee and commit offenses are
21 undisclosed to me because they're his parents resources, which
22 are at least significant enough to fly you and your child to a
23 rally and back over a weekend like that. So that's fairly
24 significant.

25 And that also gives a nationwide reach, frankly, to his

1 ability to commit these kind of offenses. So I wonder what the
2 community is in this situation.

3 MS. REYES: I would say the community is our
4 community, Your Honor.

5 THE COURT: Well, when you say danger to the
6 community, right --

7 MS. REYES: Understood.

8 THE COURT: -- that's what I'm talking about. So the
9 danger here was in Washington DC from Texas, and he lives in
10 Florida. So that's quite a broad area he covered in relation to
11 this offense. So that's just what I'm considering.

12 MS. REYES: Yes, Your Honor.

13 THE COURT: And I just say that in response to your
14 comment concerning his resources.

15 MS. REYES: Your Honor, I'm not asking for his ROR. I
16 am proposing that the Court follow pretrial services report, but
17 I'm also recommending that he be -- that the Court find that
18 Mr. Green is a suitable third-party custodian and appoint him.
19 And I'm also adding the condition of home detention. Because if
20 he's not in school and he doesn't have a specific job lined up
21 with his employer, then there really is no reason for him to
22 travel anywhere, other than DC to meet with his attorney.

23 So briefly, Your Honor, there are many, many differences
24 between our case and the *Munche1* case, and based on those
25 differences, I believe that the Court -- I understand the Court

1 finding this persuasive, but in *Munche1* the Government proceeded
2 by proffer as they did here, but the District Court had a
3 50-minute video, 5-0 minute video, to watch, themselves. So the
4 Court was able to observe the defendant commit these acts.

5 The defendant in *Munche1* was twice convicted for marijuana
6 possession. The defendant in *Munche1* had a Taser on him, which
7 law enforcement seized that day. The defendant in *Munche1* had a
8 tactical vest on. The defendant in *Munche1* lied and said that
9 the only weapon that he had on him was a pocket knife. The
10 defendant in *Munche1* actually entered the Capitol building. The
11 defendant in *Munche1* has shown no remorse. And not a huge
12 distinction, Your Honor, but the defendant in *Munche1* -- the
13 unlawful entry that he was charged under was while armed. That
14 differentiates Mr. Owens' case a little bit. And I would just
15 offer to the Court that my client is very remorseful. And the
16 defendant in *Munche1* was 30.

17 So I think that notwithstanding the seriousness, there are
18 conditions that this Court can set, and I ask the Court to find
19 that release is appropriate in this case.

20 THE COURT: All right. Thank you.

21 Anything else from the Government?

22 MS. GABLE: Your Honor, we stand by our argument.
23 Thank you.

24 THE COURT: All right. I'm going to take this under
25 consideration. We'll be in a brief recess. I'll come back out

1 and give my ruling in a few minutes.

2 (Recess at 10:46 a.m., until 11:21 a.m.)

3 THE COURT: All right. We're back on the record,
4 everyone.

5 Before I go ahead and rule, is there anything else from the
6 Government?

7 MS. GABLE: No, Your Honor.

8 THE COURT: From the defense?

9 MS. REYES: Your Honor, the pretrial services report
10 indicates the location of his passport is unknown. During this
11 break I've been able to confirm it's in Texas, and if the Court
12 finds that release is appropriate, we can get it FedExed here to
13 the clerk's office.

14 THE COURT: All right. Thank you for clarifying that.

15 All right. Because this is a crime of violence, under
16 3142(f)(1)(A), the Court shall hold a detention hearing at the
17 request of the Government, which we've done. And so at that
18 hearing it's the Court's inquiry and the Court must determine
19 whether any condition or combination of conditions will
20 reasonably assure the appearance of such person as required and
21 the safety of any other person in the community. In making that
22 determination, the Court looks to 3142(g), and there are a
23 number of factors enumerated in the statute. So I'll go through
24 those factors now.

25 The first factor is the nature and the circumstances of the

1 offense. The statute enumerates certain kinds of offenses. One
2 of them is a crime of violence, and this is a crime of violence
3 as charged. There are three felonies charged here. One is an
4 assault, which is a violent crime, assault on a law enforcement
5 officer. The other is violent entry on the Capitol grounds.

6 I've considered different aspects of the nature and the
7 circumstances of this offense. First is the defendant's
8 personal conduct. I boil that down to the fact that the
9 defendant struck a law enforcement officer with a weapon so
10 violently that it caused a concussion to that law enforcement
11 officer, and this is while the law enforcement officer was
12 trying to assist other officers who were struggling on that day
13 on January 6th.

14 It's also relevant to the nature and circumstances of this
15 offense that this occurred during the incident on January 6th at
16 the U.S. Capitol ground. I think some descriptions of that
17 event that's in *Munche1* are relevant to the Court's analysis
18 here. The District Court in *Munche1* described that incident --
19 that incident to include the use of force to subvert a
20 democratic election and arrest the peaceful transfer of power.
21 "Such conduct threatens the republic itself...indeed, few
22 offenses are more threatening to our way of life." That's a
23 quote from the District Court in *Munche1*.

24 At the conclusion of the Circuit Court's opinion in *Munche1*,
25 the Circuit Court noted as follows: "It cannot be gainsaid that

1 the violent breach at the Capitol on January 6th was a grave
2 danger to our democracy, and that those who participated could
3 rightfully be subject to detention to safeguard the community."

4 I would note also that the defendant engaged in this conduct
5 with his father, that their violence -- because it's been
6 proffered to me that his father also shoved law enforcement
7 officers -- occurred at 2:00 p.m. on January 6th, which was
8 right at the height of this event, it was at about the time the
9 Capitol itself was breached or being breached, and that
10 according to the Government, the defendant's conduct ratcheted
11 up the crowd and led to more harassment of law enforcement
12 officers.

13 The next factor under 3142(g) that I consider is the weight
14 of the evidence. Here, the weight of the evidence appears to be
15 strong based on the criminal complaint affidavit that I
16 reviewed, as well as the Government's proffer. According to the
17 Government's proffer, there are video -- there's video of the
18 incident. There are photographs in the criminal complaint that
19 show the defendant with the skateboard and the officer. There
20 are three witnesses that identify this defendant as the one who
21 struck the law enforcement officer. And, of course, there are
22 the plane tickets purchased by the defendant's father for the
23 two of them to travel there and back.

24 The next factor under 3142(g) is the history and
25 characteristics of the defendant. Now, this is a number of

1 factors, and I'll go through them. The first factor enumerated
2 in the statute is the defendant's character, and I'll come back
3 to that one at the end. Next we look at the physical and mental
4 condition of the defendant. Both are good.

5 We look to the family ties the defendant has, as well as
6 other ties, but I'll note in relation to all of these ties that
7 the defendant has none in the prosecuting district, a few to
8 this district, and to the extent he has strong ties arguably,
9 they're perhaps in Texas, although no real evidence has been
10 submitted to the Court concerning those ties, other than the
11 fact that the defendant is from Texas and his parents reside in
12 Texas who financially support him.

13 Another factor is the length of the residence in the
14 community. I interpret that to be this community. He does have
15 a bit here. He has been at Full Sail a few years.

16 Another factor is the defendant's employment. Again, he's a
17 full-time student, it's been alleged, at Full Sail, but I would
18 note I don't know how entirely accurate that is, again, because
19 of the Defense Exhibit 2. It says that the defendant's original
20 graduation date was pushed back due to course failures and
21 course withdrawals before he reentered. So that assumes that at
22 some point he was not a student. I'm not entirely sure. So at
23 least during some portion of this two years, he was having
24 difficulties in or out of school. And that's despite the fact
25 that the evidence I have before me is that his school is fully

1 paid for by his parents in advance.

2 The defendant has -- next factor is financial resources. On
3 paper the defendant has few financial resources, but, again, his
4 parents provide him significant resources. They pay for his
5 apartment here, which I have the cost of that in the pretrial
6 services report. It's significant. They pay for Full Sail,
7 which is, again, a significant expense. They pay for his travel
8 by air around the country. And he has a number of vacations as
9 well that are in the pretrial services report, including travel
10 to a number of foreign companies. I assume if he has no
11 financial ties, all of these, you know, fairly significant
12 expenses are paid for by his parents, and so he has those
13 significant resources at his disposal.

14 Another factor is the defendant's past conduct and criminal
15 history. Now, this is probably the factor most in his favor
16 because he has no criminal history, and he has no past conduct
17 that would indicate that he would otherwise be a danger to the
18 community or pose a risk of flight. So those factors certainly
19 weigh in his favor.

20 Another factor is the defendant's drug and alcohol use. He
21 admitted to both alcohol use and drug use recently and
22 regularly.

23 Another factor is record of court appearances. He has no
24 history concerning this one way or the other because he, again,
25 has never been in any trouble. So there's just no evidence

1 before me on whether or not he would appear for court if
2 required.

3 Another factor is whether or not he's on supervision for
4 another criminal offense at the time he committed this offense.
5 He's not, again, because he has no criminal history.

6 Circling back to his character. You know, it's difficult to
7 make a character determination in a situation like this because
8 the statute actually requires me just to look at character, just
9 that word. You know, on this record I have someone who is very
10 young, who doesn't have a criminal history, but allegedly
11 committed a violent offense while he's having difficulty in
12 school and using drugs. So, I mean, what do you do with that
13 character? I'm not sure that that weighs in his favor or that
14 it balances one way or the other, certainly not on this
15 evidence.

16 I've considered Mr. Green's testimony and I fully credit it,
17 but there's just not much I think that he could even give
18 concerning character. He just said his character was good.

19 The next factor I look at is the nature and seriousness of
20 the danger posed by the defendant. Again, he assaulted a law
21 enforcement officer who was attempting to do his job in
22 assisting other law enforcement officers as part of a -- and the
23 defendant did so as part of a riot, which posed a grave danger
24 to our democracy, and, again, I'm quoting that from the *Munche1*
25 decision.

1 So if we're looking also to some of the issues in *Munche1*,
2 again, *Munche1* the circuit remanded the case to the District
3 Court to consider a few factors that it believed the District
4 Court did not adequately consider. So I want to make sure I
5 consider those factors on this record and address -- at least
6 attempt to address the concern raised by the Circuit Court in
7 *Munche1*.

8 First, the Circuit Court had concerns that the District
9 Court didn't identify an articulable threat to the community
10 based on the defendant's conduct on January 6th, so in other
11 words, tying what the alleged danger to the community is to the
12 conduct, the offense conduct, in the case. Here, in considering
13 that analysis the *Munche1* Court on a number of occasions
14 identified that, you know, *Munche1* didn't physically harm any
15 person, didn't commit any violence and assaulted no one. Here,
16 we have the opposite answer to all of those questions. This
17 defendant did physically harm a person. This defendant did
18 commit violence. This defendant did assault someone.

19 So, again, to quote the *Munche1* Court, In our view, those
20 who actually assaulted police officers on January 6th are in a
21 different category of dangerousness than those who cheered on
22 the violence or entered the Capitol after others cleared the
23 way.

24 So I have considered that factor, and I do think that the
25 defendant's conduct in this case on January 6th is tied directly

1 to his potential danger to the community, which is that he did
2 commit a violent offense, and I would note also that a violent
3 offense was committed fairly early in the day in concert with
4 his father and it ratcheted up the crowd, according to the
5 evidence presented to me.

6 Also, the District Court, according to the Circuit in
7 *Munche1*, failed to demonstrate and consider the specific
8 circumstances that made the offense possible. The point being,
9 as I interpret *Munche1*, that the defendant in *Munche1* because he
10 didn't harm anyone or didn't vandalize any property, really
11 posed no threat without the group, and that's the analysis
12 there.

13 Here, again, we have a different situation. Here, this
14 defendant did harm someone, and his conduct would have been
15 harmful even without a group, and, again, the evidence I have is
16 that he ratcheted up the group through his violence.

17 The defense identified a number of factors that they assert
18 differentiate or distinguish this case from *Munche1*. One was
19 that it was a 50-minute video in *Munche1*. I would say that's
20 not a differentiating factor here because there is a video here
21 and there are photographs, and so although that video wasn't
22 played, it was proffered to me that it exists. And so I don't
23 find much difference there.

24 The defendant in *Munche1* had two marijuana convictions, it's
25 asserted by the defense, while this defendant has used marijuana

1 regularly, including three days ago. So I don't see much
2 difference there.

3 The defendant in *Munche1* used a Taser. This defendant had a
4 skateboard that he used to allegedly give a law enforcement
5 officer a concussion. The fact that the defendant had a
6 tactical vest on I really find no moment. Defense asserts that
7 the defendant in *Munche1* lied concerning a pocket knife. That's
8 not clear from the decision in *Munche1*. I think the allegation
9 is that there was something else in the waist pack the defendant
10 *Munche1* had. But the Taser itself was carried on his waist, and
11 so that was never at issue.

12 It's true that the defendant in *Munche1* entered the Capitol.
13 And I don't have any evidence before me that this defendant
14 entered the Capitol. So that is a different factor. And it's
15 true that the defendants in *Munche1* expressly showed no remorse
16 through social media after the fact, and it's true that they had
17 this different offense of unlawful entry while armed, though I
18 find that the offenses here are more serious than the offenses
19 in *Munche1*. So I really don't find that's a distinguishing
20 factor in favor of the defense.

21 I mean, it's true that there's a ten-year age difference
22 between the defendants. But to the extent there are some
23 differences there, I don't find them significant, and it's
24 really the reasoning and explanation in *Munche1* that I am
25 persuaded by and I think applies to this case and the Court's

1 analysis.

2 So overall I have four factors in general that I look at. I
3 think the first factor weighs in favor of detention. I think
4 the second factor weighs in favor of detention. I think the
5 third factor, though it has some strong positives for the
6 defendant, is at best neutral for him because there are
7 positives and negatives. And I find that the fourth factor
8 weighs in favor of detention.

9 I don't find that detention is appropriate based on serious
10 risk of flight because there's frankly just been no evidence
11 presented to me that would really justify that.

12 But I do find by clear and convincing evidence that no
13 condition or combination of conditions the Court can set will
14 reasonably assure the safety of the community or any other
15 person. So therefore, sir, you'll be remanded to the custody of
16 the United States Marshal Service pending further proceedings in
17 this case.

18 Anything else from the Government?

19 MS. GABLE: No, Your Honor.

20 THE COURT: From the defense?

21 MS. REYES: Your Honor, we object to the Court's
22 factual findings and legal conclusions.

23 THE COURT: Understood. Thank you.

24 We're at recess.

25 (WHEREUPON, this matter was concluded at 11:35 a.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter.

/s/ Suzanne L. Trimble
Suzanne L. Trimble, CCR, CRR, RPR
Official Court Reporter

4/14/21
Date