

Re: USA v. Emanuel Jackson - No. 21-mj-115 (RMM)

Chief Judge Howell:

NBC Washington News respectfully writes to request immediate access to copies of media/videos reviewed by the Court in connection with its decision this week to order defendant Emanuel Jackson held in custody. The issue of the US Capitol Insurrection is of unsurpassed public interest as is the ongoing discussion of pretrial detention and bail conditions for those who allegedly took part.

The court has reviewed the videos and publicly specified the significance of them. In hearings, Magistrate Judge Harvey said, "I would note that the government's evidence in this case, seems to me, is very strong. I've seen all videos now, and they do appear to show a violent assault on United States law enforcement officers who were seeking to protect entrances into the Capitol, one of which involves the use of a dangerous object, a metal bat."

NBC Washington seeks to copy and review these records under common law and First Amendment rights of access. We specifically request to access the videos specified in this case and reviewed by the court.

"The common law right of access is not limited to evidence, but rather encompasses 'all judicial records and documents,' Nixon v. Warner Cable 435 US (1978); see also US v. Martin 3rd Circuit 746 F, 2d (1984). Chief Justice Warren Berger wrote, "To work effectively, it is important that society's criminal process satisfy the appearance of justice," and the appearance of justice can best be provided by allowing people to observe it." See Richmond Newspapers v. Virginia 448 US 555 (1980).

Allowing the press access to pretrial hearings and related documents helps to ensure openness of our courts; that the public can be informed; and fairness in and propriety of bail and pretrial release hearings. We understand at times there may be other considerations that could outweigh the public and press right of access, but we do not believe this is one of those times, due to the unparalleled significance of this historic event. If the court believes the videos should remain hidden from public view, we request particularized findings be made to better explain the sealing of those records.

NBC Washington has requested said videos from the US Attorney's Office for the District of Columbia, but we have not received those materials. News delayed is news denied.

If you have any questions, please reach out to me at 202-507-1129 or scott.macfarlane@nbcuni.com
Thanks for all you do to serve the public.

My best wishes,

Scott MacFarlane, NBC Washington

