

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : CRIMINAL NO. 21-CR-117(KBJ)
 :
 :
 ALEX HARKRIDER :

**DEFENDANT’S MOTION TO REVOKE ORDER OF DETENTION OF TEXAS U.S.
MAGISTRATE JUDGE AND TO MODIFY BOND CONDITIONS**

The Defendant, Mr. Alex Harkrider, by and through his attorney Kira Anne West, files this appeal of his detention pursuant to 18 U.S.C. § 3145 (b) and respectfully requests that he be released with certain conditions and supervision through the High Intensity Supervision Program (HISP) with GPS monitoring by Tyler, Texas Pretrial Services. Mr. Harkrider would also be amenable to conditions of house arrest if the Court deemed it necessary. In support of this motion, the Defendant asks for a hearing and submits the following:

BACKGROUND

The Defendant, Mr. Harkrider, is thirty four years old and a Texan, a father, a brother, an uncle, and a son. He has one brother and one sister. He is a graduate of Carthage High School. He also did one semester at St. Phillips in San Antonio, Texas. At the time of his arrest on January 18, 2021, he was a full time volunteer serving as a search and rescue volunteer for a non-profit started by his co-defendant, Mr. Nichols. See Ex. 4, photos of volunteer rescues. A veteran, having served twice in both Iraq and Afghanistan for four years, he is 100% disabled from the Marine Corps. He was honorably discharged. He lives on his military disability check. Mr. Harkrider is also a father to Alex, Jr. , who is currently a sophomore in High School. Mr.

Harkrider pays child support to his son's mother each and every month and provides more than what is required of him.

Mr. Harkrider's mental health was affected by certain medical issues suffered as a result of the service to our country but his conditions have been controlled through the use of medication and his volunteer work which he uses as therapy. He has minimal criminal history; a DWI charge from more than ten years ago. *See* Ex. 1, Pretrial Services Report, filed under seal. As such, Pretrial Services recommended his release. *Id.*

PROCEDURAL HISTORY

On January 17th, Mr. Harkrider and Mr. Nichols were charged by criminal complaint with "Conspiracy and unlawful entry with dangerous weapon" pursuant to 18 U.S.C. §§ 1752(a), b(1)(a); Violent Entry and Disorderly Conduct on Capitol Grounds pursuant to 18 U.S.C. §§ 5104(e)(2)(D) and (e)(2)(G); and aiding and abetting in violation of 18 U.S.C. § 2(a).

On January 18th, 2021, at about 6:00 o'clock a.m., Mr. Harkrider was arrested at his small home in Carthage, Texas by a large contingent of police officers. Mr. Harkrider estimates at least 15 officers were present. He was awakened by a crash, banging on the door (police kicked it in), and two flash bangs were set off. He was in a daze and instantly had flashbacks of his time as a Marine where he saw daily combat which included shooting and killing. With tears in his eyes, he begged the officers not to shoot his dog, Opie. They had a search warrant. They took several items from Mr. Harkrider's home. They also questioned Mr. Harkrider first without giving him his Miranda warning. He was "in custody." Mr. Harkrider cooperated with the officers.

At Mr. Harkrider's initial appearance, the Government argued for detention pursuant to 18 U.S.C. § 3142(f). A detention hearing was held jointly with his co-defendant, Nichols, on

January 22, 2021, wherein Mr. Harkrider was represented by a defense attorney in Texas.

Although Pretrial Services recommended conditions that would assure his presence at trial and the safety of the community,¹ the Magistrate Judge ultimately granted the detention motion. *See* Ex. 1, Pretrial Services Report; Ex. 2, transcript of detention hearing.

On February 12, 2021, Mr. Harkrider and his co-defendant were charged by indictment with multiple counts arising out of his alleged participation in the events that occurred at the United States Capital on January 6, 2021.

STATEMENT OF FACTS

A. Storming of the Capitol on January 6, 2021

On January 5, 2021, Mr. Harkrider was a passenger in a truck driven by his co-defendant Nichols.² They drove from Texas to Virginia where they stayed overnight in a hotel. The following day, January 6, 2021, Mr. Harkrider and Mr. Nichols took an uber to the “Save America” rally at the Ellipse in President’s Park to listen to various speakers, including former President Donald Trump. During his speech, President Trump encouraged attendees to march to the Capitol to protest the Electoral College certification of the results of the 2020 Presidential Election. Like so many, Mr. Harkrider was unaware of any march on the Capital until the President of the United States told his supporters to “peacefully and patriotically make your voices heard” and “we are going to the capital.” Sam Cabral, *Capitol riots: Did Trump’s words at rally incite violence?*, BBC NEWS (Feb. 14, 2021), <https://www.bbc.com/news/world-us-canada-55640437>. There was talk amongst the crowd of a “big reveal” by the President, but

¹ Pretrial initially recommended a \$25,000 unsecured bond. This initial report was signed by a veteran services officer and two supervisory probation officers. However, the next day, an addendum to that initial report was issued recommending location monitoring. His mother agreed to be a 3rd party custodian if needed.

² Mr. Harkrider’s statements in this motion in no way waive the government’s burden of proving his identification.

there was none. There were also reports in the weeks leading up to this event that Antifa and BLM protesters would be present. Therefore, Mr. Harkrider had a tomahawk for self-defense and no other reason.

Mr. Harkrider was at the Ellipse to protest an election which Trump claimed had been fraudulently stolen. He wore what in Texas would be considered street clothes, with the addition of a protective vest. He did not wear any clothing with political slogans or symbols. Following Trump's long speech, and plea to march to the Capitol, Mr. Harkrider marched with the crowd to the perimeter of the Capitol. The Capitol was first breached at around 1:00 p.m., long before Mr. Harkrider allegedly arrived on the scene. *See* Laurel Wamsley, *What We Know So Far: A Timeline of Security Response At The Capitol On Jan. 6*, NPR (Jan. 15, 2021, 5:00 AM), <https://www.npr.org/2021/01/15/956842958/what-we-know-so-far-a-timeline-of-security-at-the-capitol-on-january-6>.

When Mr. Harkrider arrived at the Capitol, guards out front (presumably Capitol Police) were waiving people in on the sides and in the front of the building. There were guards standing up on the steps in front of the Capitol in riot gear. People were taking selfies with the police officers. It was peaceful in the beginning. Then, tear gas cannisters were being set off but it is unknown if it was the police, the protesters or both. People were hanging from the scaffolding that was set up for the Inauguration. Somebody broke a window, and people behind Mr. Harkrider were yelling "get in." People were pushing him forward and he could not navigate. People started crawling through the broken window. People continued going in and out of the window. At one point, Mr. Harkrider stepped into the window to flee the tear gas. It was hard to breathe. No one told Mr. Harkrider to leave, but after a few minutes, Mr. Harkrider and Mr. Nichols decided to leave the Capitol. They walked to the uber pick up zone and went back to

their hotel. There was a great deal of confusion that day.

B. Investigation following the arrest and detention of Mr. Harkrider

From January 7th, 2021, to the date of his arrest, January 18th, 2021, the defendant went about living his life as he had always done, in and around Carthage, Texas. Mr. Harkrider is alleged to have taken a table leg from the capital. Pursuant to the search warrant,³ officers took a table leg from his home which Mr. Harkrider described and explained to them how it came into his possession. He did not break any furniture, or initially take anything from the Capitol. Mr. Harkrider allegedly sent text messages to a friend, Pauly Bartel. Mocking the recent press reports, he jokingly stated “who is yall’s favorite domestic terrorist.” This term was widely used by all news media outlets after January 6, 2021.

Detective Gregory Harry testified for the government at the detention hearing. He testified about a snapchat photo depicting Mr. Harkrider, yet said “I’m not sure exactly which place we got this from.” Ex 2 @ 8. He went on to describe another photo offered as exhibit 9 and when asked about a title typed on the screenshot, he said “I actually think we recovered this from another source, as well, but I am not sure as I sit here.” *Id.* at 9. When asked about a piece of wood he said “well, the testimony ended up being that it was taken from the Capitol, but I’m not sure exactly where it came from.” *Id.* at 13.

Mr. Harkrider is alleged to have carried a Tomahawk with him and pictures of a tomahawk were admitted at the detention hearing to show Mr. Harkrider was in possession of same. There was no testimony or evidence that the tomahawk ever was out of its sheath, flaunted nor was it ever used in any way. *Id.* at 14-15. There were firearms found at his residence and in his vehicle. *Id.* at 15. There was a picture of Mr. Harkrider allegedly passing an OC cannister

³ Defense counsel has asked but not received a copy of the search warrant for Mr. Harkrider’s home.

but again, the detective testified that he didn't "know for sure that it is the same canister" used by Mr. Nichols. *Id.* at 65.

ARGUMENT

A. Pretrial Release Is Proper In This Case Because Conditions Are Available Which Will Reasonably Assure Mr. Harkrider's Presence At Trial And The Safety Of The Community.

1. The Bail Reform Act and the D.C. Circuit's *Munchel* opinion

The Bail Reform Act, 18 U.S.C. § 3142 et.seq., authorizes the detention of defendants awaiting trial on a federal offense only under certain, limited circumstances. 18 U.S.C. § 3142. Under the Act, a judicial officer may issue order that, pending trial for a federal offense, a defendant be: (1) released on personal recognizance or upon an execution of an unsecured bond; (2) released on a condition or combination of conditions, (3) temporarily detained; or (4) detained. The Act mandates pretrial release on personal recognizance or unsecured bond ("shall order the pretrial release. . . .", 18 U.S.C. § 3142(b)) unless the court determines that no condition or combination of conditions will reasonably assure the person's appearance or the safety of any other person and the community. 18 U.S.C. § 3142(e). When personal recognizance or an unsecured bond is determined to be inadequate to guarantee appearance or safety, the Act still mandates release ("shall order the pretrial release. . . .", 18 U.S.C. § 3142(c)) subject to specified conditions. The conditions must be the least restrictive conditions necessary to reasonably assure the defendant's appearance and the community's safety. *United States v. Fortna*, 769 F.2d 243 (5th Cir. 1985), cert. denied, 479 U.S. 950 (1986).

In *United States v. Salerno*, 481 U.S. 739, 755 (1987), the Supreme Court stated "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited

exception.” Courts have held that a finding that defendant is a danger to the community or a serious flight risk is a basis of detention. *See United States v. Anderson*, 177 F. Supp. 3d 458, 461 (D.D.C. 2016) (citing *United States v. Salerno*, 481 U.S. 739, 755 (1987)). The finding must be based on clear and convincing evidence that the defendant poses a danger to the community or a preponderance of the evidence to support the defendant’s likelihood to flee. *See id.*; *see also United States v. Xulam*, 318 U.S. App. D.C. 1, 84 F.3d 441, 442 (1996) (citing *United States v. Simpkins*, 826 F.2d 94, 96 (D.C. Cir. 1987)).

Indeed, the Act expressly provides that “[n]othing in this section shall be construed as modifying or limiting the presumption of innocence.” 18 U.S. Code § 3142(j). To the contrary, the passage of the pretrial detention provision of the 1984 Act bespeaks a recognition that “there is a small but identifiable group of particularly dangerous [persons] as to whom neither the imposition of stringent release conditions nor the prospect of revocation of release can reasonably assure the safety of the community or other persons. It is with respect to this limited group ... that the courts must be given the power to deny release pending trial.” S. Rep. No. 225, 98th Cong., 1st Sess. 6-7, reprinted in U.S. Code Cong. & Ad. News 3189 (emphasis supplied).

Notwithstanding the charges at issue, Mr. Harkrider should not be considered to be within that limited group for whom pretrial detention is appropriate. It is apparent from the Act's legislative history, as well as the statutorily mandated consideration of the least restrictive alternatives to detention, that Congress contemplated pretrial detention of only a small percentage of the individuals awaiting trial. Mr. Harkrider is among that majority for whom a combination of conditions short of detention without bond can be fashioned to “reasonably assure” the safety of the community and his appearance for trial. *United States v. Orta*, 760 F.2d 887 (8th Cir. 1985); *see also* 18 U.S.C. §3142(c)(1)(B) (judicial officer shall order the pretrial

release of an accused "subject to the least restrictive further condition or combination of conditions, that such judicial officer shall determines will reasonably assure the appearance of the person as required and the safety of any other person and the community") (emphasis supplied)). In the instant case Defendant's continued detention without bond is not the least restrictive alternative case; there are conditions available that will assure the community's safety and his return for future court dates. *See U.S. v. Xulam*, 84 F.3d 441 (D.C. Cir. 1996) (holding that the pretrial detention provisions of the 1984 Bail Reform Act were not intended to apply to "first-time offender accused of a nonviolent crime with strong community ties and respected members of that community willing to supervise his release"); *United States v. Munchel*, No. 21-3010, 2021 WL 1149196 (D.C. Cir. Mar. 26, 2021)(court must consider whether defendants present an "identified and articulable threat" to the community).

1. Considerations by the Court

To determine whether the conditions of release will reasonably assure a defendant's future presence in court, the following factors are considered: "(1) the nature and circumstances of the offense charged... (2) the weight of the evidence against the person; (3) the history and characteristics of the person... (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release." 18 U.S.C. § 3142(g)(1)-(4).⁴ Mr.

⁴ 18 U.S.C. § 3145(b) does not specify the standard of review to be applied by a district court reviewing a magistrate judge's detention order. The Circuit in *Munchel* did consider it and essentially considered a *de novo* review based on additional evidence presented to the District Court that the Magistrate Judge did not have. That said, both the BRA and the Federal Magistrates Act, 28 U.S.C. § 636, support the conclusion, reached by every circuit to have considered the question, that a district court reviews a magistrate judge's release or detention order *de novo*. *See United States v. Chrestman*, 21-mj-218 (BAH), 2021 WL 765662, at *5–6 (D.D.C. Feb. 26, 2021). And courts in this District routinely apply that standard. *See id.* at *6; *United States v. Hunt*, 240 F. Supp. 3d 128, 32–33 (D.D.C. 2017).

Harkrider submits that when considering these four factors, the order of detention should be vacated and this Court should set conditions of release in this case. There are several factors in the instant case which demonstrates there are conditions of release that would both guarantee Mr. Harkrider's appearance and assure the safety of the community.

A. The nature and circumstances of the offense charged....

This Court must consider the seriousness of the offense. *See* 18 U.S.C. § 3142(g)(1). Because of the unique nature of the alleged crime, the particular conduct of each defendant for purposes of pretrial detention is considered under many factors. *See, e.g., Chrestman*, 2021 WL 765662, at *7–9. Those factors include whether a defendant (1) has been charged with felony or misdemeanor offenses; (2) engaged in prior planning before arriving at the Capitol; (3) carried or used a dangerous weapon during the riot; (4) coordinated with other participants before, during, or after the riot; or (5) assumed a formal or informal leadership role in the assault by encouraging other rioters' misconduct; and (6) the nature of the defendant's words and movements during the riot, including whether the defendant damaged federal property, threatened or confronted law enforcement, or celebrated efforts to disrupt the certification of the Electoral College vote. *Id.* Here, those circumstances weigh in favor of release. Although Mr. Harkrider is charged with both misdemeanor and felonies just like Munchel, Munchel, *see supra*, carried with him a taser which he actively showed the crowd, he actively communicated with Oath Keepers, both defendants took zip ties from the Capitol, and both were seen inside the Senate Gallery. The Circuit gave great weight to the fact that defendants in *Munchel* turned themselves in (*See* Katsas, J., dissenting). However in the present case, Mr. Harkrider had no idea that there was even a warrant for his arrest or he would have turned himself in. What the Circuit found most troubling by the District Court was that although the government has the burden to present “an

identified and articulable threat to the community,” there was none presented nor found by the District Court. *See Munchel v. United States*, p. 16-17, No. 21-3010 2021 WL 1149196 (D.C. Cir. Mar. 26, 2021). The Circuit further held that the threat must be considered in context *Id.* at p. 17, and that the defendants did not engage in any act of violence and did not enter the capitol by force. *Id.*

Here, as previously argued by the defendant, there is no threat of future violence (*See Katsas, J., dissenting, p. 4*), no history of violence, no criminal history and no affiliation with any group such as the Oath Keepers or Proud Boys. Thus when considering Mr. Harkrider's behavior in the context of what happened on January 6th-Trump's empty assurance of "I'll be with you," it is not remarkable that several non-violent protesters found themselves in the Capitol alongside the few that were violent.

Mr. Harkrider did not engage in prior planning, did not use a dangerous weapon during the riot, did not coordinate with anyone other than his co-defendant, had no leadership role in the assault by encouraging other rioters and he did not damage federal property, nor confront law enforcement officers.

Mr. Harkrider has not been positively identified in any of the videotapes or photographs. Assuming the government can identify him, he never damaged anything. He never caused any damage to the Capitol area and never committed any act of violence. Although Mr. Harkrider is charged with both misdemeanors and felonies, at no time did he use or encourage violence against anyone.⁵ He is charged primarily with offenses that relate to being on restricted Capitol

⁵ The Bail Reform Act defines "crime of violence" as (A) "an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another," (B) "any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the

grounds. These are non-violent offenses and the video sequences show his actions to be non-violent. Importantly, he went to the Capitol at the invitation of his co-defendant, had no leadership role, did not engage in prior planning, was not part of any conspiracy, did not coordinate with anyone, and was not aligned with any group before or after January 6, 2021. Unlike others, he did not use or flaunt any weapon; he did not have handcuffs, flex cuffs, or promote their use. He simply went to hear the speeches and exercise his constitutional right to protest. He never encouraged misconduct by others. He never damaged federal property, never threatened law enforcement and had nothing to say about the Electoral College. The evidence submitted by the government is full of misrepresentations and assumptions.

The Weight Of The Evidence Against The Person

The affidavit filed by the FBI lays out the fact that Mr. Nichols was clearly the driving force behind this trip. Strangely, the affidavit mentions “W-1” as a person who they first received information from even though “W-1 does not know either Nichols or Harkrider personally but identified both as friends of someone known to W-1.” See Ex. 3 @ 6. This “identification” will not hold up in Court, nor will the affidavit when challenged because neither W-1 nor W-2 were even investigated by the FBI so that they could be found “reliable and credible” as the law requires in an affidavit. See *Illinois v. Gates* 462 U.S. 213 (1983). The government may argue this case has already been indicted so this point is moot. What’s important for the Court here to see is how the investigation was done by the FBI-sloppily.⁶ And

course of committing the offense,” or (C) “any felony under chapter 77, 109A, 110, or 117.” 18 U.S.C. § 3156(a)(4).

⁶ The FBI getting the facts wrong in affidavits is nothing new. Describing what happened to Carter Page, a revered judge of this Court stated the following: “The frequency with which representations made by FBI personnel turned out to be unsupported or contradicted by information in their possession, and which they withheld information detrimental to their case,

Mr. Harkrider is not 32 years old as the affiant states, but 34. Ex. 3 @ 6. A minor mistake, but if you can't get that right, what else could go wrong? Plenty. The government relied heavily at the detention hearing on the fact that Mr. Harkrider allegedly had a "baton" (Affidavit p. 2) or "tomahawk" as was later discovered at the search of his home. Importantly, Mr. Harkrider led agents to the place in his home where he kept the tomahawk. Mr. Harkrider did not believe he'd done anything wrong as he had googled whether it was legal to have such a tomahawk in the District and it was legal.⁷ Finally, the detective testifying could not name one instance of violence by Mr. Harkrider. Ex. 2 @ 53.

Finally, the snapchat could be easily doctored. The detective had no idea how the writing got on the photo. The evidence is not as the government has alleged against Mr. Harkrider. So far, what the government has provided to the Court regarding January 6, 2021 are still shots and short videos. They are taken out of context. When this Court watches the video footage the Court will see that Mr. Harkrider was peaceful. Although he is seen motioning to the crowd, it is not as the government has described it. What the government describes as a slashing gesture, the defense describes as pointing to the crowd. Other than perhaps a common law trespass, the other charges will not hold up at trial. The weight of the evidence leans in favor of release.

There is no evidence that Mr. Harkrider was part of a violent mob. Rather, he found himself surrounded by thousands of people protesting and at that time, he still believed he was engaged in a peaceful protest. Mr. Harkrider has not yet been properly identified and the

calls into question whether information contained in other FBI applications is reliable.” *In re Accuracy concerns regarding FBI matters submitted to the FISC*, 411 F. Supp. 3d 333 (D.D.C. 2019)(J. Collyer).

⁷ The government took Mr. Harkrider's phone when so the defense is unable to submit proof to the Court that Mr. Harkrider googled legal tomahawks in DC from his phone. However, a knife with a blade less than 3 inches is legal to possess in D.C. See D.C. Code Section 22-4514. Defense counsel believes without seeing the phone that this must be the statute Mr. Harkrider googled.

arguments put forth here are not a waiver of his identification.

C. History And Characteristics Of The Person, Including...The Person's Character, Physical And Mental Condition, Family Ties, Employment, Financial Resources, Length Of Residence In The Community, Community Ties, Past Conduct, History Relating To Drug Or Alcohol Abuse, Criminal History And Record Concerning Appearance At Court Proceedings.

Mr. Harkrider is a man who loves his country so much that he left his family and the comfort and beauty of Texas to fight for his country. These facts heavily favor release. The only violence he has ever done was in defense of his country. As a combat veteran, Mr. Harkrider was given medication for his PTSD. He has successfully treated his condition and he is a valued member of his community. *See* Ex. 5, letters. He spends his spare time as a volunteer who rescues people when unforeseen weather strikes. He cooperated with police from the minute he was flash banged. He has negligible criminal history. After January 6, Mr. Harkrider stayed in the area of his home. His behavior between January 7, 2021 and January 18, 2021 did not change. His actions do not indicate an intent to flee or any danger. There is nothing in his history nor in the history of his actions in this case that show an inclination to flee or towards danger to the community. He has meager financial resources. All of Mr. Harkrider's familial, professional, and social ties are in Carthage, Texas, where he currently resides. Since his ties to the community are substantial, there is no reason to think that he would flee or not return to court when given notice to do so. His mother also agreed to be third party custodian.

The assumption by law enforcement that Mr. Harkrider expressed a suicidal ideation is preposterous. Mr. Harkrider simply made a joke and said it in a joking manner, which BWC footage, when finally turned over, will reveal. Mr. Harkrider has had no mental health issues for the last couple of years and those he did have previously were a direct result of his service to our country. Even the detective that testified at the detention hearing acknowledged that "he tried to

play it off as a joke.” Ex. 2 @ 19.

Notwithstanding that others find the Defendant’s political beliefs to be irrationally based, it is clear that he was not acting out of criminal intent. In the heat of the moment, after you’ve “heard the call” from your President, you may forgo reason and listen to those around you.

The Nature And Seriousness Of The Danger To Any Person Or The Community That Would Be Posed By The Person’s Release.

Again, Mr. Harkrider is a nonviolent person and this does not apply. However, the *Munchel* dissent summarily dismisses the later news reports of other possible future protests because there was no evidence that the individual defendant had anything to do with them. (*Munchel*, Katsas, J., dissenting).

2. The Defendant Should Be Released Because The Proffer Made By The Government At The Pretrial Detention Hearing Was Not Based On Facts.

Mr. Harkrider is innocent until proven guilty, but the government has painted every person arrested in the January 6, 2021 storming of the capital as a domestic terrorist which is not only incorrect, but unconstitutional. There is absolutely no evidence that Mr. Harkrider was associated in any way with any violent or far right group at the Capitol or at any time. Mr. Harkrider never assaulted any police officers or caused any injury to any officer. And he is not suicidal.

Conclusion

Mr. Harkrider sought no personal or pecuniary gain from his actions. Rather, he acted out of the sincere belief that he was a “patriot” protesting for his country. Like thousands of others, Mr. Harkrider was responding to the entreaties of the then Commander-in-Chief, former President Donald Trump. The President maintained that the election had been “stolen” and it was the duty of loyal citizens to “stop the steal.” Defendant did not act out of criminal intent but out of sense of duty. His solitary action in this case, measured against his history of being a law-abiding

citizen, safely predicts that he is more likely to resume behaving as a law abiding citizen if released pending trial. His history does not suggest that he is likely to resume the type of alleged behavior that brings him before this Court. Notwithstanding that Mr. Harkrider has been indicted he is still presumed innocent. His ability to prepare a defense will be hampered by his pretrial incarceration and currently it is nearly impossible to speak to Mr. Harkrider more than once a week because the jail staff are overwhelmed with requests for video calls. Reviewing the evidence alongside a client during the COVID-19 pandemic is a near impossibility because undersigned counsel cannot travel to the jail and because of the protective order in place.

WHEREFORE for the foregoing reasons, and any others which may appear at a full hearing on this matter, and any others this Court deems just and proper, Defendant through counsel, respectfully requests that he be released on personal recognizance. If that request is denied Defendant requests as an alternative that he be released on Third Party Custody and placed into the High Intensive Supervision Program of the Pretrial Services Agency conditioned on reasonable conditions.

Respectfully submitted,

KIRA ANNE WEST

By: _____ /s/

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CERTIFICATE OF SERVICE

I hereby certify on the 1st day of April, 2021, a copy of same was delivered to the parties of record, by email pursuant to the Covid standing order and the rules of the Clerk of Court.

/S/

Kira Anne West

EXHIBIT 5

3/22/21

To whom it may concern.

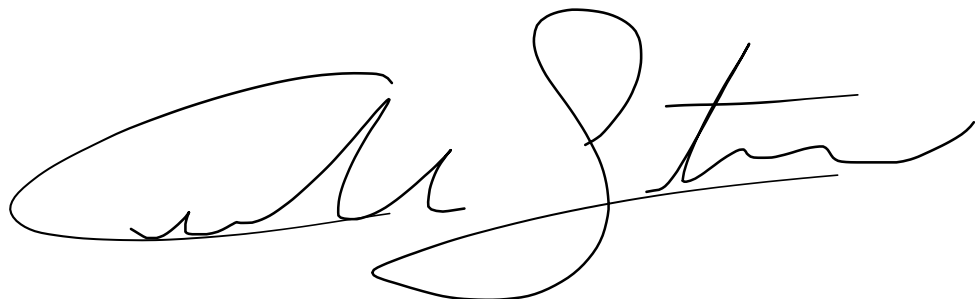
My name is Cullen Stone, I am a devoted father to a little boy named Jaxon, I just recently started my own business in the Oil & Gas industry, and I am writing this character witness statement for my brother and my close friend Alex Harkrider. I am fully aware of his current situation and the charges that are pending against him.

Alex and I have known each other since may 2020. We hit it off immediately, the loyalty/friendship he had to offer matched my own and I knew it was genuine just from his military background. I have multiple friends with military backgrounds which have all given me a place to sleep and a meal to eat if I was ever in need of either. Alex has a love for many things such as: helping/rescuing civilians during natural disasters, cooking meals for those he's helped rescued, taking his dog Opie on nature hikes or just to the lake so she can stretch her legs, spending time with his son outdoors teaching him proper work ethic and discipline, growing and raising exotic pepper plants, making others laugh and smile effortlessly, spending time with his mother and son watching shows like the mandalorian. Alex was Co-founder and devoted volunteer to a non profit organization known as "rescue the Universe". He was also a War Hero that received a key to the city when he returned home permanently from his line of duty. Alex took me in during a time where I had nowhere to go. I lived with my mother and step-father at the time and had a lot of personal/family issues taking place at home. He didn't ask for details or for rent, he just said "stay here as long as you need to man, I'll help you any way I can". Believe it or not Alex rarely ever left the house unless it was family related, for his dog, or for his organization. I wholeheartedly believe with every fiber in my body that Alex is not the man that he has been portrayed to be, and is not the man he has mistakenly portrayed himself. He is the most loyal and committed friend I have ever had, you will never stand alone or lack loyalty in your life as long as Alex is in it. Alex was exposed to the idea of going to Washington to protest by a fellow Marine veteran/friend. This so called friend has taken advantage of Alex's loyalty on multiple occasions. but Alex is blinded by his need to find purpose, he wants to fill the void that's been left from leaving the military. I think he feels this feat can be accomplished with or through his fellow marine that he accompanied to Washington. I'm not saying he is innocent or trying to convince you that he wasn't capable of the charge related incidents. But I am saying that his loyalty was taken advantage of.

I believe the incarceration of Alex Harkrider would devastate his family/friends as well as destroy him emotionally/mentally. I think Alex has much more to offer as a free man, I have full intentions of offering him a full time job when/if he gets out. My line of work is strenuous, difficult, and nothing short of hard labor. I live with Alex, I've up-kept his home while he's been away cleaning and remodeling the things he's always wanted done since I met him. I do these things in hope for a fresh start when he returns, a new chapter with a chance of redemption. He is a blessing to all who know him personally. I vow to hold him to a higher standard as I always have. Even when he's got nothing to give, he offers everything he has. I want to thank you for your time and consideration regarding my statement. If there is anything at all I can help with or clarify you may contact me on my personal cell (903)-754-3929 or my work cell (903)-263-1775.

Yours sincerely,

R. Cullen Stone

A handwritten signature in black ink, appearing to read "R. Cullen Stone". The signature is fluid and cursive, with a large, prominent loop at the end of the last name.

Jorge A Olalde
XXXXXXXXXX

To whom it may concern,

I had the privilege of knowing Alex Harkrider from July 2010 through October 2011. Specifically, I was Mr. Harkrider direct enlisted supervisor. I was fortunate to served alongside Alex during peacetime and in combat while serving in the United States Marine Corps. Mr. Harkrider played a pivotal role as an Infantrymen during our companies' deployment to Afghanistan. Alex made extensive sacrifices by leaving his family and deploying to a horrible war under harsh and undesirable conditions. His willingness to put himself in harm's way for his fellow Marines displayed many attributes which included teamwork, camaraderie, and self-sacrifice. I am also aware of the situation Mr. Harkrider is currently facing and I can only say that Mr. Harkrider's actions are not a reflection of the man I served with. Maybe, he may have lost his way along the navigation of coming back home much like the rest of us whom struggle with the ugliness of "WAR". Whatever his reasons may have been I am pleading with you, Honorable Ketanji Brown Jackson to look past his obvious mistakes and rather look at the fact that he is a father who just wants to comfort his child before he is either sentenced or taken away. I plead with you to allow for these veterans of consecutive deployments to have the opportunity of a bail to await trail.

Sincerely,

Jorge A Olalde

To whom it may concern:

I'm Alex's sister. We are seven years apart and have experienced much together in our lives. Much joy. Much heart break. Much overcoming. Physical distance. Reunion. But through it all he's always been someone to push through whatever has been presented to him. We used to argue over what restaurants we wanted to eat at as kids. We would fight over what to watch on TV. We'd get on each other's nerves when I was 18 & he was 11. But when I learned Alex had joined the marines I was so proud. What he achieved as a Marine & what he witnessed and had to deal with, it's overwhelming. It clearly had an effect in him. Even still he was a great father to my nephew AJ. They are so funny together & it's great to see him happy with his son in a way we never experienced from our absent father. I've watched Alex grow as an incredible cook. His adventurous skill and desire to create better has been so exciting to see develop. As a pretty good cook myself I've secretly harbored a bit of jealousy at his skill. But I think where I really watched in awe is when I saw a broken Marine start to find his purpose after serving multiple terms. I was so proud to see my brother co-found the 'Rescue the Universe' group. He was using his skill to go into intense storms & flood zones to literally rescue people. Hearing his stories of people, hopeless & abandoned, suddenly seeing him there and realizing someone cared and was there to help, it's overwhelming. He rescued a woman in a Lake Charles nursing home after a major hurricane. The nursing home staff abandoned the helpless residents who had no way to get out. Alex physically carried one woman out and I still get emotional thinking of how that was helping both the elderly frail woman & Alex.

Alex is truly loves his country. He loves people. He loves his family. And he loves his dog. Even his dog, Opie, is obviously missing Alex, just like we are. He's my little brother and he loves this country. I love him and I know he's going to do continue to do great things because that's just who is.

From his sister,
Andrea Remedies

To whom it may concern:

Hello, My name is Kavin Ballard. I served with Alex Harkrider in Lima company 3rd Battalion 9th Marines from 2008 to 2010. I know Alex unlike many others. He is my brother not my blood or creed but by choice. I know he is not only compassionate for the needs of our country but passionate about it. He only wants what's best for our great country, like many others and he's shown it in ways not many of our countries citizens have. He not only joined the Marine Corps but he joined in a time of war and even beyond that he joined the infantry. He put his life not indirectly, but DIRECTLY on the line to make sure that we have the rights that we enjoy today. At this time our country is at unrest and Alex being the passionate person that he is felt like he had to stand up, just like he has in the past. I don't know exactly what he's accused of, but what I do know is that Alex is pure of heart and intention. He is a person that in a time of need, I'd want by my side. This man, is and will forever be one of the best people I know.

Thank you for your time.
Sergeant Kavin D Ballard II
United States Marine Corps.

(Medically Retired)

TO WHOM IT MAY CONCERN:

My name is Darlene Humphries and I am Alex Harkrider's aunt. I've known Alex since his birth. He's always been loving, funny and sweet!!

In spite of not having the opportunity to be raised by a loving Dad or any other Father figure it's amazing how wonderful he's grown up to be!!

He has a huge loving heart for family, friends, those in need and animals. I truly believe he doesn't discriminate and finds the best in everyone he knows or meets.

I was extremely impressed with Alex at Thanksgiving this past year, he cooked a huge Thanksgiving meal for his family and some of his friends. I'm so thankful to have been a part of it.

My son is 19 years old and Alex was his hero in elementary school. The school proudly displayed Alex's picture for serving our country. My son still loves to hear about his tours and all it entailed. He has also influenced my son to be a rescuer too!

Alex loves his country too and that's why he enlisted in the Marines for 4 years. He served in Afghanistan and Iraq. I know it was extremely hard for him and he has had to cope with PTSD.

But his heart led him to join Rescue the Universe where he has cared for many people after disasters. He has helped with high water issues, cleaned debris, passed out water and helped with repair damage. He has even helped with the elderly in Louisiana.

His compassion is amazing! I'm extremely proud of him and love him dearly.

I have known Alex Harkrider for over 10 years and during that time I've gotten to know him very well, he is my best friend. I served, fought, and bled alongside Alex and our fellow brothers in the Marine Corps both during OIF and OEF. Alex served honorably during his time, risking his life time and time again to make sure the brother next to him had the support he needed. I've always known him to put others before himself in and outside of the Corps. He is a kind man who always looks to brighten someone else's day, sometimes at the expense of his own comfort. Which is why I was not surprised to hear that he volunteered many times to help families that fell victim to natural disasters in the non-profit Rescue the Universe. I know deep in my heart that Alex Harkrider only wants to help people, which is why he talked me into helping to start his own non-profit to help at risk veterans called Curb 22. I pray for those that read this understand what kind of man he really is. He is a helper, a friend, and my brother whom I love.

Thank you and God Bless,

Jesus O. Hernandez

March 20, 2021

TO WHOM IT MAY CONCERN:

RE: Alex Harkrider

My name is Pat Wilson and I live in Carthage, Texas.
I have managed a local travel agency for 35 years.

I first met Alex when he was between 7 - 8 years old. He and his Mom started attending Central Baptist Church in Carthage. I was a Sunday School teacher for this age group and he was in my class. He was a blond headed little boy and he caught my attention on that first Sunday. He was a well adjusted child! As we in the South say, "All Boy!!" He was a smart child and was never disrespectful to me even when I corrected him. Needless to say, I fell in love with him from the start. He was in my room for approximately two years before promoting to the next grade level. I saw him often after he left my class and I always received a hug each time I saw him.

During the time Alex was in Jr. High and High School, I did not see him very often, but kept up with him through his Mom. I would see Alex from time to time and even though he was older, I still would get that "big old bear hug." One day I ran into his Mom in a local shop here in town and she told me that Alex had enlisted in the marines and was leaving soon. That made my heart happy that he wanted to serve our country. I thought this would be good for Alex and that Alex would be a good marine. During his time in the service, I did not see his Mom very often.

One Sunday morning, when I entered the sanctuary, I saw this tall, handsome young man dressed in his Dress Marine uniform in the front of the church. I thought it was Alex, but not quite sure. During the announcement time, he was announced and welcomed home from serving our country. After service I went down to the front and waited my turn to welcome him home. The minute he saw him I got that big old Alex grin and my bear hug. Again, my heart was happy and proud. My now, his Mom and I were friends on social media and I would see Alex post on her page. He called her MOTHER GOOSE and I loved this. A year or so later, he teamed up with a friend and they formed a rescue team that would respond to hurricanes, tornadoes or any other natural disaster that occurred. Again, I was happy and proud that they were helping people in need that they did not even know.

Upon hearing of his arrest, I immediately called Mother Goose because I knew she was heart broken. I immediately began praying for Alex and his Mom. I will now add you to this prayer list as you work to defend Alex. May God richly bless you.

Alex's friend,
Pat Wilson

P.S. I love Alex Harkrider

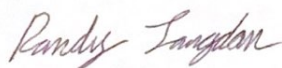
RE: Alex Harkrider

March 28, 2021

To the Honorable Ketanji Brown Jackson:

I am writing this letter to speak on the character of Alex Harkrider. I was shocked when I learned of the allegations against him. They are incongruent with the man I know. I've known Alex for 11 years. In that time, I've known him to be a good friend and a great father. He is the type of person to go out of his way to help others. He is a man of character and conviction who always stands up for what he believes in. Alex and I served together in the Marine Corps, including a tour of duty in Afghanistan. He has always been a walking example of *integrity and discipline*, even in the face of adversity. There are endless examples of the depth of his friendship and loyalty. One prime example is the unwavering support and encouragement he gave me as I was adjusting to life after deployment. He is incredibly supportive of those he cares about and often puts the needs of others before his own. I have zero concerns about his ability to be safe in the community. I have complete faith in Mr. Harkrider's ability to move forward with his life as a positive and productive member of society.

Randy Langdon

A handwritten signature in cursive script that reads "Randy Langdon".