

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

UNITED STATES OF AMERICA :
 :
 v. : **Criminal No. 21-cr-158**
 :
 KYLE FITZSIMONS :
 :
 Defendant. :

NOTICE OF FILING

The Government requests that the attached discovery letter, dated **April 17, 2021**, be made part of the record in the above-captioned case.

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney

By: /s/ Puja Bhatia
PUJA BHATIA
BRANDON REGAN
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U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530*

April 17, 2021

DISCOVERY LETTER #1

Greg Hunter, Esq.
Defense Counsel

**Re: United States v. Kyle Fitzsimons
21-CR-158**

Dear Counsel:

Pursuant to our discovery obligations, we have provided the following files via USAfx on April 15, 2021. **Note that USAfx only keeps files it's the shared drive for 60 days so please download them before they are deleted:**

- 35 Gully Oven Road (97)
- Toyota Tundra (35)

We have provided the following files via USAfx on April 15, 2021:

- Mis-Identification through Public Tips:
 - 089B-WF-3377667_0000056_1A000008_000001_Redacted
 - 089B-WF-3377667_000027_Import_Redacted
 - 089B-WF-3377667_000027_Redacted
 - 089B-WF-3377667_000027_1A000010_000001
 - 089B-WF-3377667_000027_1A000010_000003
 - 089B-WF-3377667_000027_1A000010_000002
 - 089B-WF-3377667_000027_1A000010_000004_Redacted
 - 089B-WF-3377667_000056_Import_Redacted
 - 089B-WF-3377667_000056_Redacted
 - 089B-WF-3377667_000004_Import
 - Serial 4
 - 089B-WF-3377667_000004_1A000003_000002

- 089B-WF-3377667_0000004_1A0000003_0000001
- Fitzsimons Phone Images (15)

We have provided the following files via USAfx on April 6, 2021 ahead of the detention hearing in this matter:

- VOICEMSG[ID=962855 G=40 F=3
- BOLO-139_0074USCHBALowerWTerraceDoorExterior_2021-01-06_15h57min42s260ms.mp4_clip_790_910
- BOS Meeting 1-7-2021
- 20210106_-_RIOT_-_CAPITAL_BUILDING.mp4_clip_140_250

Also, many of these files and their related physical attachments are currently being formally processed for discovery by the discovery team assigned to the Capitol Riots cases. As such, some of the same files will be re-produced with bates-stamps at a later date.

We recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. We have provided the mis-identification information described above in line with such obligations. We will continue provide timely disclosure if any such material comes to light. Consistent with *Giglio, Ruiz*, and 18 U.S.C. § 3500, we will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

We request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. We also request that defendant(s) disclose prior statements of any witnesses defendant(s) intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). We request that such material be provided on the same basis upon which the government will provide defendant(s) with materials relating to government witnesses.

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, we request that defendant(s) provide the government with the appropriate written notice if defendant(s) plans to use one of the defenses referenced in those rules. Please provide any notice within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

We will forward additional discovery as it becomes available. If you have any questions, please feel free to contact us.

By: /s/ Puja Bhatia
PUJA BHATIA
BRANDON REGAN
Assistant United States Attorneys