

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :  
 :  
 v. : **Crim. No. 21-CR-127 (ABJ)**  
 :  
 JOSHUA BLACK, :  
 *Defendant.* :

**MOTION FOR LEAVE TO FILE SUPPLEMENT TO  
UNITED STATES' OPPOSITION TO DEFENDANT'S  
MOTION TO RECONSIDER AND VACATE ORDER OF DETENTION**

The United States of America, by and through the United States Attorney for the District of Columbia, respectfully moves this Court for leave to file a Supplement (“Supplement”) to its Opposition to Defendant Joshua Black’s Motion to Reconsider and Vacate Order of Detention (“Opposition,” ECF No. 20), filed on April 1, 2021.<sup>1</sup> Defense counsel for Black does not oppose this motion. Should the Court grant this motion, the Supplement is attached. In support of this motion, the government now states the following:

1. On March 24, 2021, Black, through his defense counsel, filed a Motion to Reconsider and Vacate Order of Detention. (ECF No. 15.)
2. By minute order dated March 24, 2021, the Court ordered the government to file any opposition to Black’s Motion by April 1, 2021.
3. On April 1, 2021, at approximately 4:47 p.m., the undersigned counsel filed the Opposition on behalf of the government.
4. On April 1, 2021, at approximately 7:00 p.m., the undersigned counsel opened an email sent to him at 3:35 p.m., but which he had not opened or read before filing the Opposition.

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<sup>1</sup> Black’s motion (ECF No. 15) was filed on March 24, 2021.

The email transmitted a link to a YouTube video depicting exterior footage of the breach of the East Rotunda entrance to the Capitol on January 6, 2021. In its Opposition, the government detailed evidence that Black had entered the Capitol from that entrance. Most of this evidence comprised interior surveillance footage of the breach, plus evidence from Black's own statements. The government also mentioned exterior video it had reviewed from another source's cellphone, but which does not appear to depict Black. When filing the Opposition, the undersigned counsel was unaware of any other exterior video footage that captured Black.

5. After watching the YouTube video at approximately 7:00 p.m., the undersigned counsel identified Black at multiple points in the footage.

6. At 7:55 p.m., the undersigned counsel sent the link to the YouTube video, as well as multiple screenshots of the video where the undersigned counsel identified Black, to defense counsel.

7. The undersigned counsel believes the video provides evidence material to the Court's consideration of whether any condition or combination of conditions can reasonably assure the safety of any other person or the community if Black is released. Therefore, it asks the Court for leave to file the attached Supplement to the Opposition.

8. On April 2, 2021, the undersigned counsel spoke with defense counsel, who does not oppose the government filing this motion and the Court considering the Supplement.

WHEREFORE, for the foregoing reasons, the government respectfully requests that the Court GRANT its motion for leave to file the attached Supplement to its Opposition.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

BY: /s/ Seth Adam Meinero  
SETH ADAM MEINERO  
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Detailee  
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555 4th Street, N.W., Fourth Floor  
Washington, DC 20530

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 2, 2021, I served a copy of this pleading on defendant's counsel through the Court's electronic case files system.

*s/ Seth Adam Meinero* \_\_\_\_\_

SETH ADAM MEINERO

Trial Attorney

Detailer

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

<b>UNITED STATES OF AMERICA</b>	:	
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v.	:	<b>Crim. No. 21-CR-127 (ABJ)</b>
	:	
<b>JOSHUA BLACK,</b>	:	
<i>Defendant.</i>	:	

**SUPPLEMENT TO UNITED STATES’ OPPOSITION TO DEFENDANT’S  
MOTION TO RECONSIDER AND VACATE ORDER OF DETENTION**

The United States of America, by and through the United States Attorney for the District of Columbia, respectfully submits this supplement to its Opposition to Defendant Joshua Black’s Motion to Reconsider and Vacate Order of Detention (“Opposition,” ECF No. 20), filed on April 1, 2021.<sup>1</sup> In further support of the Opposition, the government relies on the following factual and legal authorities, as well as any that may be offered at a hearing on Black’s motion.

**SUPPLEMENTAL FACTUAL BACKGROUND**

On April 1, 2021, after filing the Opposition, undersigned counsel became aware of additional video evidence of the violent siege that occurred at the East Rotunda entrance of the Capitol on January 6, 2021, at approximately 2:38 p.m. Black entered the Capitol from this entrance at approximately 2:40 p.m. (Opposition at 6.)

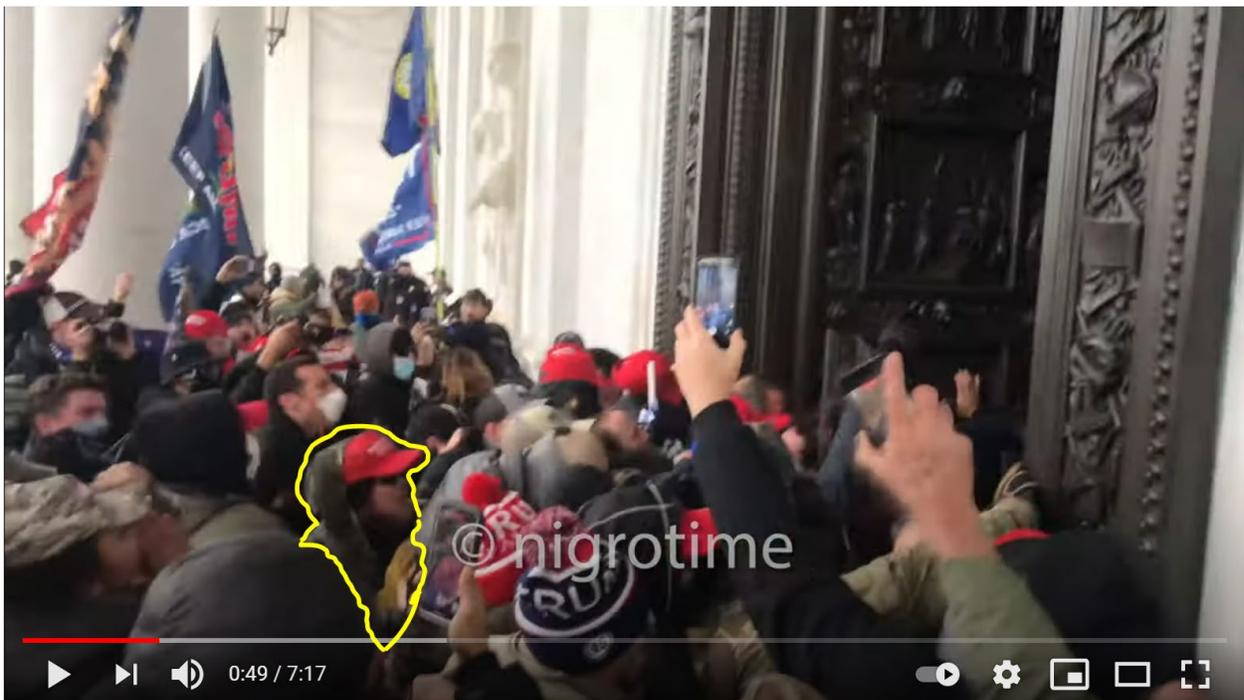
This video of exterior footage, currently available on YouTube at <https://www.youtube.com/watch?app=desktop&v=MVullQb-Lec>,<sup>2</sup> depicts Black near the front of a group attempting to gain entry to double doors while at least five officers stand in the doorway,

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<sup>1</sup> Black’s motion (ECF No. 15) was filed on March 24, 2021.  
<sup>2</sup> Undersigned counsel provided this link, along with screenshots of the video, to defense counsel on April 1, 2021, at 7:55 p.m.

with the doors closed behind them. Other individuals in the group yell at, push, and spray chemical irritants at the officers.

From approximately 00:38-00:57 in the video, some members in this group repeatedly heave into the officers. Black – who is wearing a green camouflage hooded jacket, a red ballcap whose brim is protruding from the hood, sunglasses, and yellow gloves – participates in the heaving action. At 00:49, Black’s yellow-gloved right hand is on the back of another man also participating in the heaving maneuver, as depicted in this screenshot (Black outlined in bright yellow):



As they continue to be yelled at, shoved, and sprayed, the distressed officers in the doorway bend over and cover their faces to protect themselves. Rioters wrest a large riot shield from one of the officers. From 01:26-01:33, an officer whose eyes are wincing and who appears to have some substance stains on his left shoulder, gets out of the doorway and walks to his right, near Black. At 01:29, Black appears to have his arm around another rioter from behind, with his right

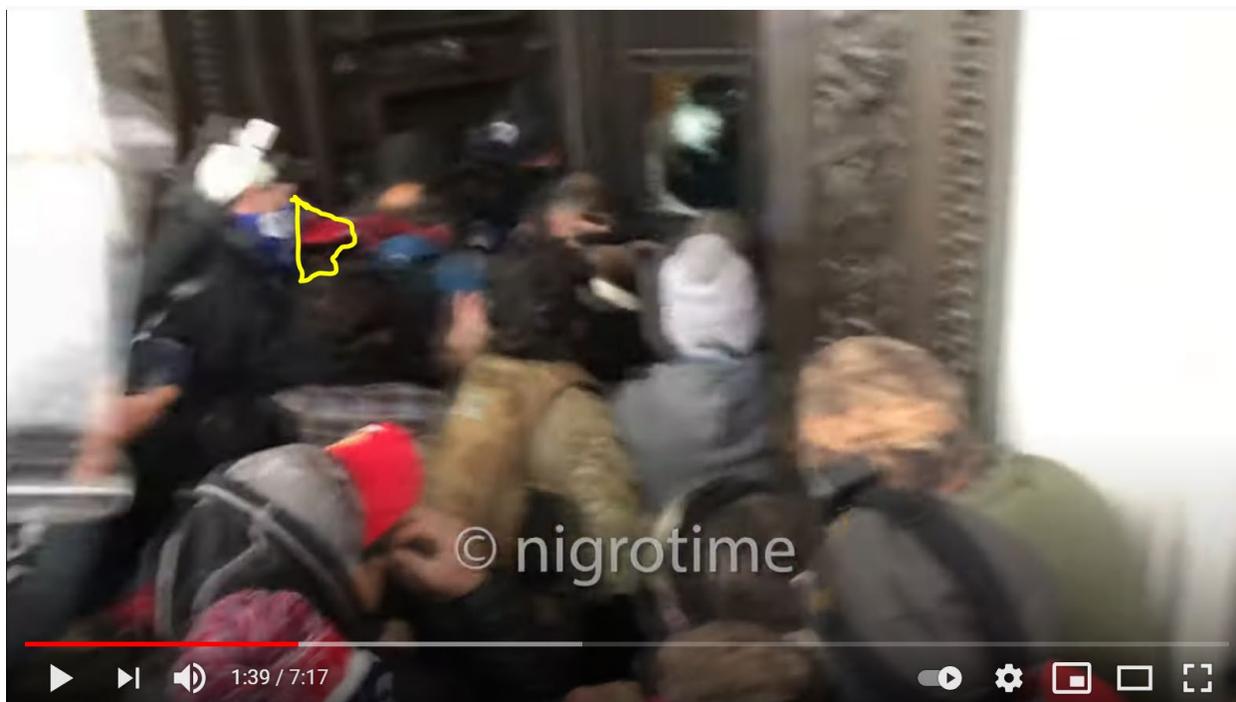
yellow-gloved hand on the other rioter's torso, as depicted in this screenshot (Black outlined in bright yellow, the officer outlined in blue):

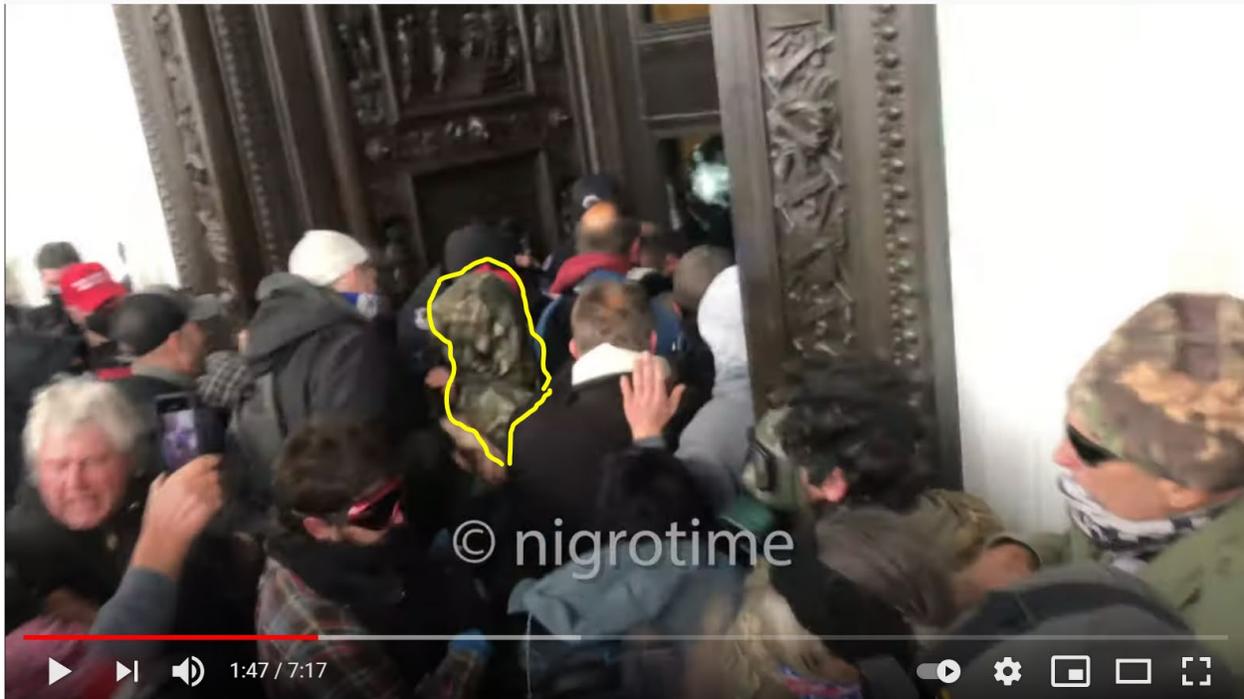


By 01:39, Black advanced inside the doorway. Views of Black in the doorway are frequently obstructed and appear for seconds or fractions of seconds, but he can be seen at various points there with his green camouflage hood, red ballcap, and sunglasses. He is also distinguished by being relatively shorter and slightly built compared to the other men there.<sup>3</sup> He remains inside the doorway until at least 01:48, as depicted in these sequential screenshots (Black outlined in bright yellow):

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<sup>3</sup> Black admitted to FBI that he is 5'6" and weighs 130 pounds. The government recommends that it is easiest to track the man it has identified as Black by watching the video on a big screen in a full-screen, slowed-down mode. To view in full screen, click on the icon in the lower corner of the YouTube video window that looks four right-angle corners. To reduce playback speed, click on the "Settings" icon (which looks like a mechanical wheel) on the bottom right of the YouTube video window, select "Playback speed," and select "0.25" or another slowed-down speed.



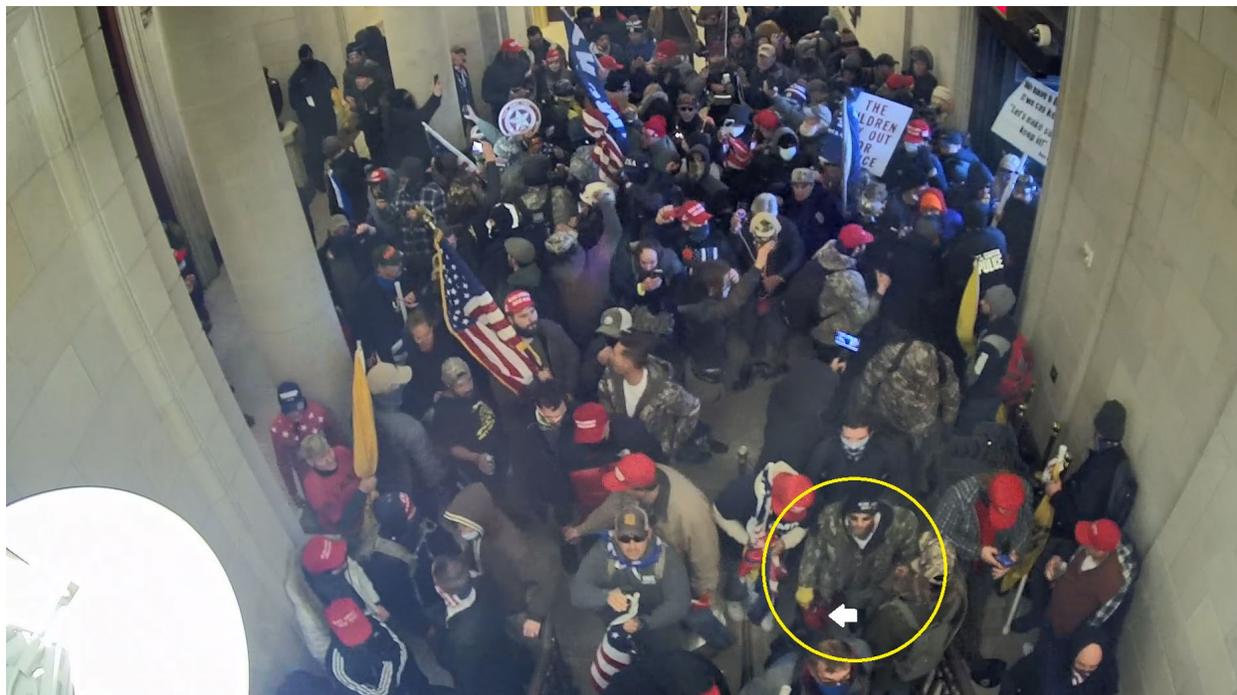


Currently, the government has not clearly identified Black elsewhere in this video beyond the 01:49 mark.

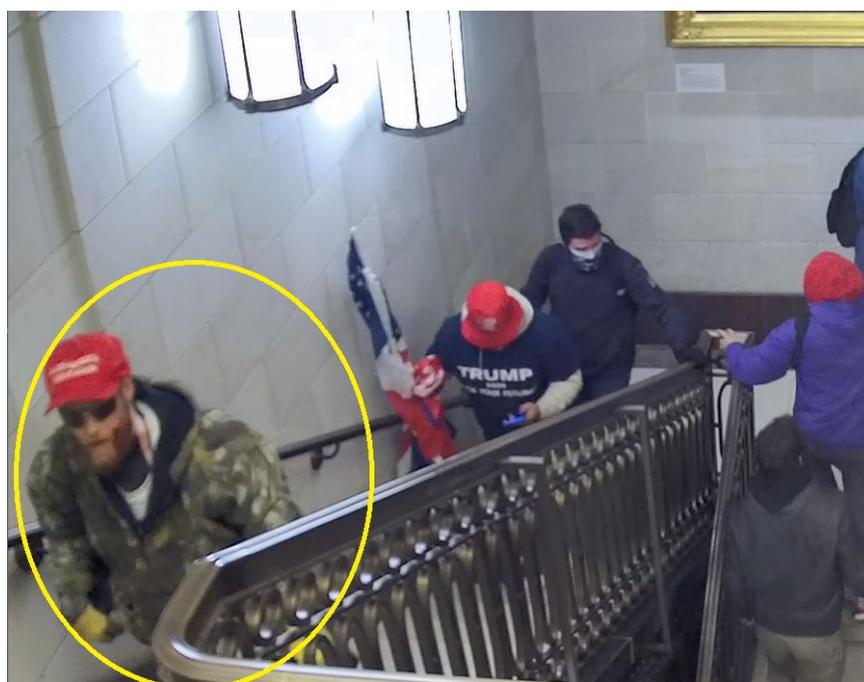
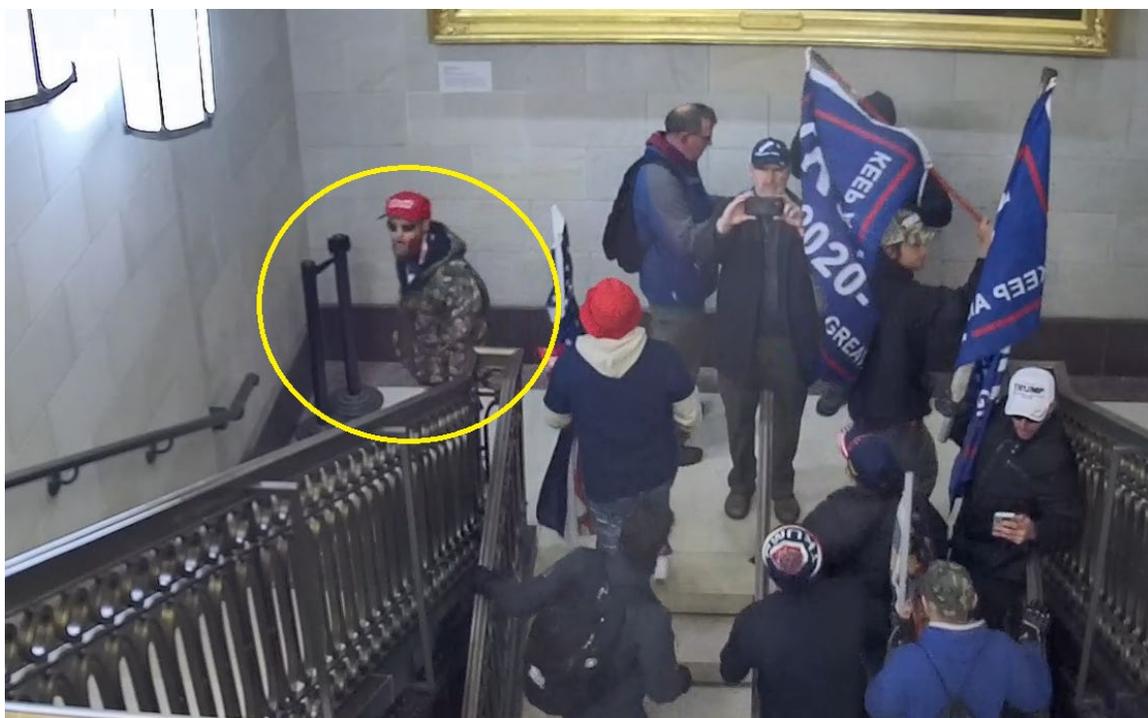
From approximately 01:52-03:12, rioters continue crowding the remaining officers. One rioter continues spraying a substance in their direction, and another throws a plastic water bottle toward one officer cornered in the doorway. During this standoff, the doors appear to remain closed. The camera angle pans away from the doorway, showing others in the rioting crowd. When the camera pans back to the doorway at approximately 03:25, the doors are open.

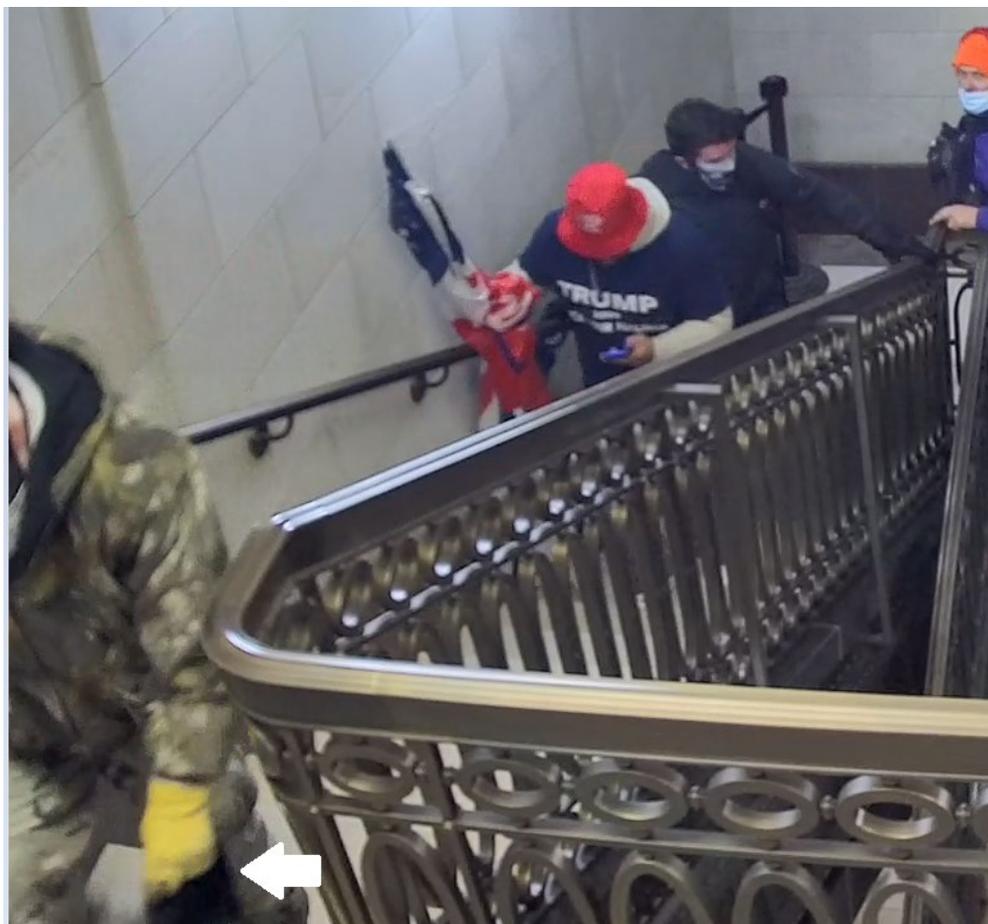
Based on the interior video surveillance discussed in the Opposition, interior rioters began forcing open the doors at 2:38 p.m. Black crossed the threshold at 2:40 p.m. At Black's entry, he is wearing a black skullcap and carrying the red ballcap. (Opposition at 6.) One interior surveillance camera shows that after entering, Black has the red ballcap in his right yellow-gloved

hand, as depicted in this screenshot where Black has advanced toward a stairwell (Black circled in bright yellow, red ballcap indicated with white arrow):



Another interior camera captures Black climbing the stairs. By this time, he is again wearing the red ballcap, his hood is down, and he carries the black skullcap in his left yellow-gloved hand, as shown in these sequential screenshots (Black circled in yellow, black skullcap indicated with white arrow):





### SUPPLEMENTAL ARGUMENT

The newly discovered video further confirms what the government argued in its Opposition: Black was among the vanguard of Capitol-riot insurrectionists, and was a leader in the violent mob that sought to, and eventually did, breach the East Rotunda entrance.

Black participated for at least 19 seconds in a heaving maneuver that had police officers cornered in the doorway. His yellow-gloved right hand appears to push against the back of man in a gray top immediately in front of him, leveraging himself and that man during the breach attempt.

A short time later, Black is seen off to the side of the doorway, where he appears to have his arm around another rioter from behind. That rioter is positioned adjacent to a distressed officer – apparently suffering from being sprayed with a chemical irritant – who extricated himself from the doorway. Arguably, the video captures what could be Black holding that rioter back from further assaulting the officer, as Black claimed he had done in his video interview with the FBI. Black recounted one of the officers was “walking like a blind man” because he had been pepper-sprayed “right in the face,” and this could be that officer. (Opposition at 9.)

But just a few seconds later, the man the government identifies as Black stopped holding back any other rioters and advanced to the doorway itself. By his own admissions, he was “up there at the police” in the doorway, and admonished officers to stand down. (Opposition at 8-9.) All the while, the mob around him screamed at, shoved, grabbed at, sprayed, and threw at least one object at the besieged officers. When the doors were ultimately breached, the group assault on the officers intensified. Both exterior and interior rioters swarmed the officers, pushing and pulling them, and one rioter even clawed on to and rattled the helmet faceshield of an officer stuck at the threshold. Rioters pulled that officer inside, away from the doorway, and continued to surround, isolate, and, it appears, taunt that officer. Black’s actions at the doorway leading up to this made this vicious assault possible.

At 2:40 p.m., now wearing a black skullcap, Black muscled his way across the threshold and between two officers who had hopelessly tried to hold the line at the doorway. He walked a few steps to the stairwell adjacent to that entrance, and switched back to wearing the red ballcap, which he was wearing outside, with his hood now down. Eventually, he made his way to the Senate Chamber.

The evidence clearly shows Black – who all along was armed with a concealed knife, and believed God called on him to unlawfully breach the seat of the federal government – was a leader throughout the Capitol attack, from his crossing the gate with the mob (Opposition at 7-8), to his reaching the Senate floor (Opposition 6-7, 9-10). Especially so at the east entrance, where he was front and center during the breach. His actions aided and emboldened others who brutally assaulted the desperate officers in the doorway and destroyed property there. He is “in a different category of dangerousness” than other participants who played a more moderate role in the Capitol riot. *United States v. Munchel*, --- F.3d ----, 2021 WL 1149146, \*8 (D.C. Cir. 2021).<sup>4</sup>

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<sup>4</sup> The government also requests to correct two drafting errors in the Opposition. First, on p.18, the first full sentence at the top of the page should read, “He rifled through Senator’s papers, apparently taking a cellphone photo of a paper related to a Congressman and Senator’s objection to one state’s certification.” Second, on p. 20, the last sentence of the first paragraph should read, “As long as he stands indicted before this Court for any felony, he is federally prohibited from receiving a firearm that has traveled in *interstate or* foreign commerce, a predicament that may cause him further aggravation” (edit indicated by italics).

**CONCLUSION**

WHEREFORE, for the foregoing reasons, for the reasons in the government's Opposition, and for any other such reasons as may appear to the Court, the government respectfully requests that the Court DENY Black's Motion, and that Black remain held without bond pending trial.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

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*s/ Seth Adam Meinero*

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