



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*

May 6, 2021

Greg Hunter, Esq
BY EMAIL

Re: *United States v. Kyle Fitzsimons*
Case No. 21-cr-158

Dear Counsel:

Enclosed as discovery in this case is discovery production via USAFX that contains materials as described in the attached index. Please note that discovery in this case is ongoing, with additional materials forthcoming. Additionally, we have produced evidence seized from your client's cell phone pursuant to a search warrant. If you would like a forensic copy of the entire cell phone, please let me know.

Due to the extraordinary nature of the January 6, 2021 Capitol Attack, the government anticipates that a large volume of materials may contain information relevant to this prosecution. These materials may include, but are not limited to, surveillance video, statements of similarly situated defendants, forensic searches of electronic devices and social media accounts of similarly situated defendants, and citizen tips. The government is working to develop a system that will facilitate access to these materials. In the meantime, please let me know if there are any categories of information that you believe are particularly relevant to your client.

The discovery is unencrypted. Please contact me if you have any issues accessing the information, and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1. This material is subject to the terms of the Protective Order issued in this case.

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

I 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. I 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). I 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, I 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.

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

Sincerely,

Brandon K. Regan
Assistant United States Attorney

Enclosure(s)
cc:

VOLUME	SENSITIVE	HIGHLY SENSITIVE	BEGINBATES	ENDBATES	PAGECOUNT	DESCRIPTION
Fitzsimmons_01			CAP02_000008574	CAP02_000008575	2	(U) Assault on Law Enforcement on Capitol Grounds.Capitol Police MPD; Subject KYLE FITZSIMONS
Fitzsimmons_01			CAP02_000008576	CAP02_000008579	4	U//FOUO NTOC2021 21chh02 Individual Reporting the Identity of NCDPS Probation Officer Allen D Hux of Columbu
Fitzsimmons_01			CAP02_000008580	CAP02_000008584	5	U//FOUO NTOC2021 21chh02 Individual Reporting the Identity of NCDPS Probation Officer Allen D Hux of Columbu
Fitzsimmons_01			CAP02_000008585	CAP02_000008585	1	U//FOUO 1_9350560-tip.json
Fitzsimmons_01			CAP02_000008586	CAP02_000008591	6	U//FOUO SAR_Import.txt
Fitzsimmons_01			CAP02_000008592	CAP02_000008596	5	(U) 707520_WF.pdf
Fitzsimmons_01			CAP02_000008597	CAP02_000008597	1	(U) Kyle Fitzsimons Driver's License and NCIC
Fitzsimmons_01			CAP02_000008598	CAP02_000008599	2	(U) Fitzsimons NCIC DL Photo.zip
Fitzsimmons_01			CAP02_000008600	CAP02_000008604	5	(U) Fitzsimons NCIC DL Photo.zip
Fitzsimmons_01			CAP02_000008605	CAP02_000008606	2	(U) Fitzsimons NCIC DL Photo.zip
Fitzsimmons_01			CAP02_000008607	CAP02_000008611	5	(U) Fitzsimons NCIC DL Photo.zip
Fitzsimmons_01			CAP02_000008612	CAP02_000008612	1	(U) Preservation Letter to Google re: kylefitzsimons.kf@gmail.com
Fitzsimmons_01			CAP02_000008613	CAP02_000008614	2	(U) Google Preservation Letter Fitzsimons.pdf
Fitzsimmons_01			CAP02_000008615	CAP02_000008616	2	(U) Google Preservation Letter Fitzsimons.pdf
Fitzsimmons_01			CAP02_000008617	CAP02_000008618	2	(U) CD Containing YouTube Town Hall Meeting 1/21/2021
Fitzsimmons_01			CAP02_000008619	CAP02_000008619	1	(U) Youtube Video ReadMe.docx
Fitzsimmons_01			CAP02_000008620	CAP02_000008620	1	(U) Portland, ME Suspicious Package News Article
Fitzsimmons_01			CAP02_000008621	CAP02_000008630	10	(U) Portland Suspicious Package.pdf
Fitzsimmons_01			CAP02_000008631	CAP02_000008640	10	(U) Portland Suspicious Package.pdf
Fitzsimmons_01			CAP02_000008641	CAP02_000008642	2	(U) Observations and Records Check on 1/27/21
Fitzsimmons_01			CAP02_000008643	CAP02_000008643	1	(U) 1.jpg
Fitzsimmons_01			CAP02_000008644	CAP02_000008644	1	(U) 35_Gully_Oven_Open_Source.PNG
Fitzsimmons_01			CAP02_000008645	CAP02_000008645	1	(U) 3.jpg
Fitzsimmons_01			CAP02_000008646	CAP02_000008646	1	(U) 2.jpg
Fitzsimmons_01		X	CAP02_000008647	CAP02_000008648	2	(U) US Capitol CCTV 0074 USCH BA Lower W Terrace Exterior Door
Fitzsimmons_01			CAP02_000008649	CAP02_000008650	2	(U) Surveillance of 35 Gully Oven Road, Lebanon, Maine
Fitzsimmons_01			CAP02_000008651	CAP02_000008651	1	(U) 2-1-21 Lebanon Surv.pdf
Fitzsimmons_01			CAP02_000008652	CAP02_000008652	1	(U) 02012021 Surv for WF-3377667.pdf
Fitzsimmons_01			CAP02_000008653	CAP02_000008653	1	(U) Physical Surveillance of 33 Gully Oven Road, Lebanon, Maine
Fitzsimmons_01			CAP02_000008654	CAP02_000008654	1	(U) ME- 946AVP.pdf
Fitzsimmons_01			CAP02_000008655	CAP02_000008655	1	(U) ME- 9172YG.pdf
Fitzsimmons_01			CAP02_000008656	CAP02_000008656	1	(U) SUR Log Notes 01292021.pdf
Fitzsimmons_01			CAP02_000008657	CAP02_000008659	3	(U) Surveillance of 35 Gully Oven Road, Lebanon, Maine
Fitzsimmons_01			CAP02_000008660	CAP02_000008660	1	(U) ME- 9172YG.pdf
Fitzsimmons_01			CAP02_000008661	CAP02_000008661	1	(U) ME- 946AVP.pdf
Fitzsimmons_01			CAP02_000008662	CAP02_000008662	1	(U) SUR Log Notes 01292021.pdf
Fitzsimmons_01			CAP02_000008663	CAP02_000008664	2	(U//FOUO) Surveillance - 35 Gully Oven Road, Lebanon, ME
Fitzsimmons_01			CAP02_000008665	CAP02_000008666	2	(U//FOUO) Surveillance - 35 Gully Oven Road, Lebanon, ME
Fitzsimmons_01			CAP02_000008667	CAP02_000008667	1	(U) Information from Hannaford Brothers Co.
Fitzsimmons_01			CAP02_000008668	CAP02_000008668	1	(U) Surveillance - 35 Gully Oven Road, Lebanon, Maine

VOLUME	SENSITIVE	HIGHLY SENSITIVE	BEGINBATES	ENDBATES	PAGECOUNT	DESCRIPTION
Fitzsimmons_01			CAP02_000008669	CAP02_000008669	1	(U) Spot check of 35 Gully Oven Road on 2/2/21
Fitzsimmons_01			CAP02_000008670	CAP02_000008670	1	(U) Arrest Warrant for Kyle Fitzsimons
Fitzsimmons_01			CAP02_000008671	CAP02_000008672	2	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008673	CAP02_000008673	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008674	CAP02_000008674	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008675	CAP02_000008675	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008676	CAP02_000008684	9	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008685	CAP02_000008686	2	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008687	CAP02_000008687	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008688	CAP02_000008688	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008689	CAP02_000008689	1	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008690	CAP02_000008698	9	(U) Arrest Warrant and Complaint-Fitzsimons.zip
Fitzsimmons_01			CAP02_000008699	CAP02_000008700	2	(U) Arrest and Transport of Kyle FITZSIMONS on February 4, 2021
Fitzsimmons_01			CAP02_000008701	CAP02_000008701	1	(U) 20210204_152720.jpg
Fitzsimmons_01			CAP02_000008702	CAP02_000008702	1	(U) 20210204_152714.jpg
Fitzsimmons_01			CAP02_000008703	CAP02_000008711	9	(U) E2021035000000128673.pdf
Fitzsimmons_01			CAP02_000008712	CAP02_000008712	1	(U) 20210204_152709.jpg
Fitzsimmons_01			CAP02_000008713	CAP02_000008715	3	(U) SDETECTIVES21020417410.pdf
Fitzsimmons_01			CAP02_000008716	CAP02_000008716	1	(U) Executed search warrant, application, and affidavit for the search of a motor vehicle.
Fitzsimmons_01			CAP02_000008717	CAP02_000008784	68	(U) Executed search warrant, application, and affidavit for the search of a motor vehicle.
Fitzsimmons_01			CAP02_000008785	CAP02_000008852	68	(U) SW Packet 29-JHR.pdf
Fitzsimmons_01			CAP02_000008853	CAP02_000008853	1	(U) Executed search warrant, application, and affidavit for the search of Kyle FITZSIMONS.
Fitzsimmons_01			CAP02_000008854	CAP02_000008915	62	(U) Executed search warrant, application, and affidavit for the search of Kyle FITZSIMONS.
Fitzsimmons_01			CAP02_000008916	CAP02_000008977	62	(U) Packet 24-JHR123430.pdf
Fitzsimmons_01			CAP02_000008978	CAP02_000008978	1	(U) Executed search warrant, application, and affidavit for the search of 35 Gully Oven Road.
Fitzsimmons_01			CAP02_000008979	CAP02_000009042	64	(U) Executed search warrant, application, and affidavit for the search of 35 Gully Oven Road.
Fitzsimmons_01			CAP02_000009043	CAP02_000009106	64	(U) Packet 23-JHR130322.pdf
Fitzsimmons_01			CAP02_000009107	CAP02_000009107	1	(U) Request Arrest Warrant Removal from NCIC
Fitzsimmons_01			CAP02_000009108	CAP02_000009108	1	(U) Fingerprint submission response (Fitzsimons)
Fitzsimmons_01			CAP02_000009109	CAP02_000009111	3	(U) Fingerprint submission response (Fitzsimons)
Fitzsimmons_01			CAP02_000009112	CAP02_000009114	3	(U) E2021035000000111059.pdf
Fitzsimmons_01			CAP02_000009115	CAP02_000009116	2	(U) Evidence Collection from 35 Gully Oven Rd. Lebanon, ME
Fitzsimmons_01			CAP02_000009117	CAP02_000009119	3	(U) Evidence Collection on 2/4/21 from 35 Gully Oven Rd.
Fitzsimmons_01			CAP02_000009120	CAP02_000009120	1	(U) Warrant Removal
Fitzsimmons_01			CAP02_000009121	CAP02_000009124	4	(U) Kyle Fitzsimons Removal.pdf
Fitzsimmons_01			CAP02_000009125	CAP02_000009125	1	(U) Search of Electronic Evidence Seized on 2/4/21
Fitzsimmons_01			CAP02_000009126	CAP02_000009129	4	(U) Inventory Tracking122922.pdf

VOLUME	SENSITIVE	HIGHLY SENSITIVE	BEGINBATES	ENDBATES	PAGECOUNT	DESCRIPTION
Fitzsimmons_01			CAP02_000009130	CAP02_000009130	1	(U) Search Warrant on 2/24/21
Fitzsimmons_01			CAP02_000009131	CAP02_000009131	1	(U) --- UNCLASSIFIED
Fitzsimmons_01			CAP02_000009132	CAP02_000009132	1	(U) --- UNCLASSIFIED
Fitzsimmons_01			CAP02_000009133	CAP02_000009133	1	(U) 1004.pdf
Fitzsimmons_01			CAP02_000009134	CAP02_000009134	1	(U) New_Evidence_Entry.xlsx
Fitzsimmons_01			CAP02_000009135	CAP02_000009135	1	(U) ---UNCLA.rtf
Fitzsimmons_01			CAP02_000009136	CAP02_000009136	1	(U) Search Warrant on 3/24/21