

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

UNITED STATES OF AMERICA,

v.

JOHN STEVEN ANDERSON,

Defendant.

CABLE NEWS NETWORK, INC., et al.,

Proposed Intervenors.

Case No. 21-cr-215-RC

NOTICE OF SUPPLEMENTAL AUTHORITY

The Press Coalition has moved to intervene in this action for the limited purpose of challenging the Government’s designation of a 30-second clip of surveillance footage from the U.S. Capitol (the “Video Clip”) as “Highly Sensitive,” which prevents Defendant John Steven Anderson from providing that Video Clip to the press and the public. As the Press Coalition has demonstrated, the Government cannot justify its “Highly Sensitive” designation because, *inter alia*, in several other Capitol riot cases the Government expressly agreed to the release of similar CCTV surveillance footage from inside the Capitol. *See* Mot. to Intervene at 6, Dkt. 27; Reply Mem. in Further Supp. of Mot. to Intervene at 2-3, Dkt. 32.

The Press Coalition now respectfully notifies the Court of supplemental authority from another Capitol riot case, *United States v. Morss*, 21-cr-40-TNM-5, in which the Government again did not oppose the release of Capitol surveillance footage to the press and public. On July 19, 2021, noting that he had “confirmed that neither the government nor the defense objects to the release,” Magistrate Judge G. Michael Harvey ordered the Government to make publicly available several video exhibits that the Government submitted in connection with Defendant

Robert Morss’s detention hearing, including four clips of video from Capitol surveillance cameras. *See* Minute Order of June 19, 2021, *United States v. Morss*; Gov’t’s Third Suppl. Mem. in Supp. of Pretrial Detention at 4-6, *United States v. Morss*, Dkt. 91 (indicating Exhibits H, J, and N are clips of surveillance video); *see also* Ryan J. Reilly (@ryanjreilly), Twitter (July 20, 2021), <https://twitter.com/ryanjreilly/status/1417540426169556993> (publishing the video clip designated as Exhibit L, which likewise appears to be Capitol surveillance footage).

The four Capitol surveillance video clips released in the *Morss* case depict activity in the tunnel leading to the Lower West Terrace doors to the U.S. Capitol. *See* Gov’t’s Mem. in Supp. of Pretrial Detention at 12-17, *United States v. Morss*, Dkt. 80. The Video Clip at issue in this case, according to Defendant Anderson, depicts activity in the same exact location. *See* Mem. in Supp. of Def’s Oral Mot. to Remove Designation of “Highly Sensitive” from CCTV Video Clip at 2, Dkt. 24. In fact, the Video Clip at issue here depicts events that occurred in the Lower West Terrace tunnel at approximately 2:53 PM, *see id.*, while Exhibit H from the *Morss* case depicts events that occurred just four minutes later, at approximately 2:57 PM, *see* Gov’t’s Third Suppl. Mem. in Supp. of Pretrial Detention at 4, *United States v. Morss*, Dkt. 91 (describing Exhibit H).

Because the Government consented to the release of the surveillance videos in the *Morss* case, the Government cannot possibly establish good cause – under a “mosaic theory” or any other – to justify continuing to designate this Video Clip as “Highly Sensitive.” For these reasons, and those set out in the Press Coalition’s prior filings, the Court should grant the motion to intervene and order the Government to remove its challenged designation immediately.

Dated: July 21, 2021

Respectfully submitted,

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