

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Vs.
NICHOLAS BROCKHOFF,
Defendant.

CASE NO.: 21-CR-524

DEFENDANT’S REPLY TO THE GOVERNMENT’S OPPOSITION

The Government’s case for detention is – and must be – focused on the allegations of January 6. Prior to that date, Nicholas Brockhoff (hereinafter “Brockhoff”) never did anything to suggest he was a danger. Brockhoff has no prior criminal history.

Mr. Brockhoff did nothing to suggest (from January 6, 2021 until his arrest) that he was violent, committed any dangerous acts, or threatened to do so. He voluntarily surrendered, and was arrested without incident.

The Government is forced to argue that his conduct on January 6, 2021, and this date alone, requires detention. As this Court is aware in *Klein*, this Court can fashion suitable release conditions for persons with no prior or subsequent dangerous activity, even if accused of violent behavior toward police.¹ *U.S. v. Federico Klein*, 1:21-cr-236, ECF no. 29. This Court should note, any attempt by the Government to indicate Mr. Brockhoff is alleged to have “injured, attempted to injure, or threaten to injure others” or that he is alleged to have “actively threatened or confronted federal officials or law enforcement” would be nonsense since the discharge from the fire extinguisher is non-toxic and, by its very design, designed to be non-toxic and designed not to cause injury. and the government has not proffered any evidence of Mr. Brockhoff having “promoted

¹ Brockhoff denies throwing the wrench, and any utilization of the fire extinguisher contents as a battery, is at best de minimis, noting the contents of a fire extinguisher are non-toxic.

or celebrated efforts to disrupt the certification of the electoral vote count.”¹² Mem. Op., *United States v. Chrestman*, No. 1:21-cr- 00160-TJK, at 15 (D.D.C. Feb. 26, 2021).

The Wrench

Mr. Brockhoff denies the throwing of a wrench. The Court can evaluate the allegations against Mr. Brockhoff by reviewing the Government’s response and the respective evidence, and conclude the evidence is at best inclusive and at worst, not indicative of any crime having been committed by Mr. Brockhoff.

Mr. Brockhoff’s risk of flight

The undersigned wishes to re-iterate, Mr. Brockhoff has strong ties to the area in which he resides. Mr. Brockhoff is 21 years of age. Mr. Brockhoff was born and raised in Covington, Kentucky, and was residing in his childhood home when law enforcement sought him for arrest. Mr. Brockhoff has resided in that residence for the last sixteen years. Mr. Brockhoff lived at the residence with his brother and Father. Mr. Brockhoff’s mother also resides in Covington, Kentucky. There is no indication that Mr. Brockhoff’s travel is anything other than recreational, and certainly was not and is not done with the intent to “hide” or evade any person or agency. Additionally, Mr. Brockhoff did not “cut-off” his access to his family or friends as he was in possession of a cell phone.²

The Court should be reminded that Mr. Brockhoff has limited financial means, and any monies he would have had would be from employment. This Court should note, his mother and father are property owners and would utilize their residence(s) for conditions of release. Mr. Brockhoff has no hidden assets or anything of value that could aid him in flight should he fail to appear.

Using the aforementioned technology (his cell phone), Mr. Brockhoff took no steps in avoiding apprehension, and aided law enforcement in providing his location so as

² The undersigned notes traveling the United States used to be encouraged and admired since we were free and had the right to travel, but now, is presented as some attempt to be a flight risk.

to be arrested. On the morning of Mr. Brockhoff's arrest, Mr. Brockhoff was at a campground near the Memphis, Tennessee area. Law enforcement arrived at the Brockhoff residence in Covington, Kentucky, to serve a search warrant and an arrest warrant. Mr. Brockhoff was advised by his brother that law enforcement were seeking him.

CONCLUSION

For these reasons, Mr. Brockhoff respectfully asks this Court to vacate the detention order and order him released on conditions this Court deems appropriate under §§ 3142(a)–(c). Because the government has provided no permissible basis for pretrial detention under § 3142(f), and continuing to detain Mr. Brockhoff violates the law.

DATED: March 8, 2022

ALEX R. STAVROU, ESQ.

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Certificate of Service

I HEREBY CERTIFY, that a true and correct copy of the foregoing Notice of Appearance was sent via ECM filing to the United States Attorney Office for the District of Columbia, on this 8th day of March, 2022.

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