

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

UNITED STATES OF AMERICA

v.

Case No. 1:21-cr-00331

KENNETH KELLY,

Defendant.

_____ /

UNOPPOSED MOTION TO FILE CCTV VIDEO UNDER SEAL

COMES NOW, the Defendant, **KENNETH KELLY**, by and through his undersigned attorney, and moves this Honorable Court to issue an order allowing the Defendant to file 5 CCTV videos dated January 6, 2021, for the purpose of sentencing and would state:

1. The Government in discovery provided the defendant with five CC TV videos dated January 6, 2021, showing the defendant in the Capitol Building. Pursuant to the presentence report and the statement of facts in this matter the defendant was in the Capitol Building for approximately 7 minutes. What he did and how he conducted himself while he was in the Capitol Building is highly relevant to the defendant's position in the memorandum for sentencing provided to this court on January 6, 2022.

2. On July 6, 2021, (Doc.14), this court issued an order pursuant to the consent of the parties entitled "Protective Order Government Discovery". In the body of that order, the court identified "highly sensitive" discovery material. The Government has identified the five CC TV videos which the defendant wishes the court to review as "highly sensitive".
3. Paragraph 4.a. of the order limits use of the highly sensitive material to the matters connected to the defense of the case or any other case connected to the events at the United States Capitol on January 6, 2021. Clearly a sentencing this matter falls within the limitation of use of said protective order.
4. Assistant United States Attorney Hava Mirell, the prosecutor in this case, has no objection to these videos being filed under seal.
5. On December 27, 2021 the Government stated, "It had no objection to the defendant filing the videos under seal." The Government further stated that the defendant could use USA FX or another platform to share the video clips.
6. The 13 photos attached to Defendant's Sentencing Memorandum are screenshots of these 5 CCTV videos, and have a red circle around the Defendants person, in order for this Court to be able to identify him.

7. Pursuant to LCvR 5.1(h)(1):

Absent statutory authority, no case or document may be sealed without an order from the Court. A document filed with the intention of it being sealed in an otherwise public case must be filed by electronic means in a manner authorized by the Clerk and shall be accompanied by a motion to seal. The document will be treated as sealed, pending the outcome of the ruling on the motion. Failure to file a motion to seal will result in the document being placed on the public record.

8. The 5 CCTV videos will be filed with this motion by electronic means in a manner authorized by the Clerk of Court for the United States District Court of the District of Columbia, pursuant to LCvR 5.1(h)(1). The video evidence will be treated as sealed, pending the ruling of this motion.

WHEREFORE, the Defendant, **KENNETH KELLY**, moves this Honorable Court for an order allowing the Defendant to file under seal the above stated videos.

TRAGOS, SARTES & TRAGOS, PLLC

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