

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

UNITED STATES OF AMERICA,) CRIMINAL ACTION NO.

)

Plaintiff,) 1:21-CR-223 (APM)

)

v.)

)

Matthew Mark Wood)

)

)

Defendant.)

)

**DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION TO COMPEL ACCESS TO NON-PUBLIC
AREAS OF THE CAPITOL**

Defendant Matthew Mark Wood, by and through undersigned counsel, requests that the government be compelled to allow his defense team access to several non-public areas of the Capitol building in order to inspect, measure, photograph and videotape these areas for preparation in his defense. These areas are not available to the public and have not been made available to counsel for photographs or inspection on the prior tours of the Capitol designed specifically for defense counsel.

In support of this reply the defendant asserts the following:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OF AMERICA,) CRIMINAL ACTION NO.) Plaintiff,) 1:21-CR-223 (APM) v.) Matthew Mark Wood))) Defendant.)) DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL ACCESS TO NON-PUBLIC AREAS OF THE CAPITOL Defendant Matthew Mark Wood, by and through undersigned counsel, requests that the government be compelled to allow his defense team access to several non-public-areas of the Capitol building in order to inspect, measure, photograph and videotape these areas for preparation in his defense. These areas are not available to the public and have not been made available to counsel for photographs or inspection on the prior tours of the Capitol designed specifically for defense counsel. In support of this reply the defendant asserts the following: 1. On April 27, 2022 the government was emailed a discovery letter by defense counsel specifically requesting the ability to inspect and photograph tangible objects and buildings or places that are within the possession, control or custody of the government pursuant to Fed. R. Crim. P 16(a)(1)(C). 2. Defendant Wood is alleged to have traveled throughout the Capitol in various places detailed in our initial motion, with the intent to obstruct a proceeding before Congress. See ECF 8, Indictment p. 1. 3. The proceeding before Congress would presumably have been in the House and/or Senate Chambers though the indictment is silent as to which proceeding before Congress is alleged. 4. Mr. Wood did not enter either the House or the Senate chamber that day. 5. However, as he traveled through the Capitol that day the option to enter both Chambers was available to Mr. Wood. Numerous routes, easily accessible and unimpeded by law enforcement, were available to him had his desire been to disrupt or otherwise impede a proceeding before Congress. 6. It is material to Mr. Wood's defense that he be able to show the alternate paths that were available to him but that he chose to avoid as he moved from Nancy Pelosi's conference room, through the hallway directly outside that room, on through the Rotunda and down other hallways between the rotunda and the House Chamber. 7. The photos depicting those pathways, measurements of the relative distance he was from choosing different paths, contained with the defendant's motion, with the photo in previous subsection a material to demonstrating that he had no intention of disrupting any proceeding before Congress that day and such evidence goes directly to the heart of the accusations against him. 8. Additionally, in at least one government video, the video which appears to be the Chicago footage, Mr. Wood is seen entering a corridor while other protestors are engaging with officers at the end of the hallway. Mr. Wood is seen assessing the situation and standing to the side before leaving out the door he came through only to reenter and stand several feet further down the hallway, seemingly unaware of any protest or officers. Because of the markings on the tile floor of that room, it would be easy to measure distances between Mr. Wood's location in the video and the relative line of officers and protestors if we were given access to the corridor. The CCTV video skews the perspective of this corridor as it does in other such videos such that the relative distances may not be as they seem to the viewer. This can misinform the jury of real 3 distance verses perceived distance. If allowed access to this corridor, and other places only visible to us through the CCTV video, the actual distance can be articulated for the jury rather than guesswork that may possibly distort the evidence which makes is unreliable. Additionally, just yesterday, May 18, 2022, the government uploaded a video to USAfx from defendant's phone appearing to depict portions of the same scene from the perspective Mr. Wood would have had in the hallway holding his phone over his head. This video provides a very different perspective from which that corridor can be viewed and may skew the distances as well. It is to the benefit of all parties to have certainty regarding these distances and how far the defendant was to the conflict. The Defense team requires access to this hallway and the ability to photograph/videotape and measure certain areas as depicted on the CCTV video. Respectfully Submitted, /s/ Kira Anne West DC Bar No. 993523 712 H. Street N.E., Unit 509 Washington, D.C. 20002 (202)-236-2042 kiraannewest@gmail.com Attorney for Mr. Matthew Wood 4 Certificate of Service I certify that a copy of the foregoing was filed electronically for all parties of record on this 19th day of May, 2022.

/s/ _____ Kira Anne West Attorney for Mr. Matthew Wood 5

and unimpeded by law enforcement, were available to him had his desire been to disrupt or otherwise impede a proceeding before Congress.

6. It is material to Mr. Wood's defense that he be able to show the alternate paths that were available to him but that he chose to avoid as he moved from Nancy Pelosi's conference room, through the hallway directly outside that

room, on through the Rotunda and down other hallways between the rotunda and the House Chamber.

7. The photos depicting those pathways, measurements of the relative distance he was from choosing a different path, combined with the defendant's familiarity with the Capitol from previous visits, is material to demonstrating that he had no intention of disrupting any proceeding before Congress that day and such evidence goes directly to the heart of the accusations against him.
8. Additionally, in at least one government provided CCTV video in what appears to be the Ohio Clock Corridor, Mr. Wood is seen entering a corridor while other protestors are engaging with officers at the end of the hallway. Mr. Wood is seen assessing the situation and standing to the side before leaving out the door he came through only to reenter and stand several feet, perhaps more (how can we know without measuring?) away from any crowd forming around the officers. Because of the markings on the tile floor that room, it would be easy to measure distances between Mr. Wood's location in the video and the relative line of officers and protestors if we were given access to the corridor. The CCTV video skews the perspective of this corridor, as it does in other such video, such that relative distances may not be as they seem to the viewer. This can misinform the jury of real

distance verses perceived distance. If allowed access to this corridor, and other places only visible to us through the CCTV video, the actual distance can be articulated for the jury rather than guesswork that may possibly distort the evidence which makes is unreliable. Additionally, just yesterday, May 18, 2022, the government uploaded a video to USAfx from defendant's phone appearing to depict portions of the same scene from the perspective Mr. Wood would have had in the hallway holding his phone over his head. This video provides a very different perspective from which that corridor can be viewed and may skew the distances as well. It is to the benefit of all parties to have certainty regarding these distances and how far the defendant was to the conflict. The Defense team requires access to this hallway and the ability to photograph/videotape and measure certain areas as depicted on the CCTV video.

Respectfully Submitted,

/s/

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Certificate of Service

I certify that a copy of the forgoing was filed electronically for all parties of record
on this 19th day of May, 2022.

/s/
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Attorney for Mr. Matthew Wood