

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

United States)	
)	
v.)	NO. 1:21cr140
)	
Larry Brock)	
)	
)	
<u>Defendant.</u>)	

MOTION TO COMPEL DISCOVERY

BACKGROUND

Mr. Brock is charged in a six count indictment with Obstruction of an Official Proceeding (18 U.S.C. § 1512), Entering and Remaining in a Restricted Building or grounds (18 U.S.C. § 1752), Disorderly and Disruptive Conduct in a Restricted Building or Grounds, (18 U.S.C. § 1752), Entering and Remaining on the Floor of Congress, (40 5104(e)(2)(A)), Disorderly Conduct in a Capitol Building (40 U.S.C. § 5104(e)(2)(D)), and Parading, Demonstrating or Picketing in a Capitol Building (40 U.S.C. § 5104(e)(2)(G)).

Mr. Brock is asserting his discovery rights to their fullest extent in this case. The government has produced voluminous discovery through email, USAfx, evidence.com, and the Relativity database. Mr. Brock has also made various specific discovery requests, many of which have not been responded to.

ARGUMENT

Fed. R. Crim. Pro. 16 requires the government to provide the accused with discovery. The *Brady v. Maryland* line of cases requires the government to provide the

accused any favorable evidence relevant to guilt or punishment. 373 U.S. 83 (1963).

Pursuant to these authorities, and as further indicated below, Mr. Brock asks this Court to order the government to produce the following materials:

1. Evidence Demonstrating Peaceful Behavior by Mr. Brock.

Evidence of Mr. Brock's peaceful behavior while in the United States Capitol could be used to support a number of defenses in this case. For example, such evidence would tend to show that Mr. Brock lacked "corrupt" intent under § 1512(c). It is therefore discoverable under *Brady*.

Some of this evidence has already come to light, but there is reason to believe the government has not disclosed it all. On June 18, 2021, Mr. Brock made the following request to the government via letter:

In a previously produced video 0962 USCS 03 at around minute 1:30 you can see an African American man wearing a blazer enter the frame with fists raised in what appears to be a fighting stance. Upon information and belief, this individual was involved in a confrontation with a protestor shortly before entering the frame which Lt. Col. Brock attempted to break up. We consider evidence of such an intervention by Lt. Col. Brock exculpatory as to guilt and/or punishment. Please produce any video additional video evidence which might have captured this. Please also provide me with the name and contact information for the African American man in the video.

The government has not responded to this request. Mr. Brock made a similar request by email dated July 1, 2021:

Upon information and belief, Mr. Brock exited the capitol by requesting a member of law enforcement to escort him out. The officer would have observed Mr. Brock persuade another individual who was behaving in a disorderly manner to exit the building with him peacefully.

We do not know the name of the officer or what agency he was with but Mr. Brock (who is 6'3") estimated his height at around 6'8". The officer was caucasian and wore black tactical gear. I am hoping this description, especially the unusual height, will allow you to identify who it was.

Please tell us this officer's name and check if he had any body camera that day, took any notes, or wrote any reports. I consider this information exculpatory as to guilt and punishment.

The government has not responded to this request either. Mr. Brock therefore requests this Court to order the government to produce the specified materials and all others of a similar nature.

2. Evidence of Mr. Brock's Entry to the Allegedly Restricted Area

The government has produced a large amount of footage purporting to show Mr. Brock. However, undersigned counsel has thus far been unable to locate a video alleged to show his entrance to the capitol building and/ or any restricted area. Such evidence could support a number of defenses, including that Mr. Brock was not on notice that the grounds were restricted as required for both § 1752 charges. Mr. Brock requests that the Court order the government to produce the evidence or specify where it is located in the databases.

3. Evidence of Informants, Undercover Agents, Cooperating Sources and other Similar Persons Present at the Capitol on January 6

A defendant may move to dismiss an indictment on the ground of outrageous government conduct where law enforcement's behavior was "so outrageous that due process principles would absolutely bar the government from invoking judicial process to obtain a conviction." *United States v. Russell*, 411 U.S. 423, 431-32 (1973). One potential basis for such motion is if law enforcement assets provoked or encouraged the January 6th events. It reasonable to assume that law enforcement had informants in at

least some of the right-wing groups participating in January 6th. To the extent law enforcement encouraged their participation in the Capitol breach, or knowingly failed to interfere with the plans, such information could be used in support of a Motion to Dismiss for Outrageous Government conduct. Mr. Brock has previously requested this information but the government has not provided. This Court should order the government to produce it as *Brady* information.

CONCLUSION

For the foregoing reasons, the defendant asks this Court to order the government to produce the specified materials.

Respectfully Submitted,

By:

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CERTIFICATE OF SERVICE

I have served this filing on the government through the ecf system.

Respectfully Submitted,

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