

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 1:21-cr-28-1 (APM)
	)	
THOMAS CALDWELL,	)	
	)	
Defendant.	)	

**GOVERNMENT’S UNOPPOSED MOTION FOR LEAVE TO FILE SURREPLY  
TO DEFENDANT’S REPLY IN SUPPORT OF THIRD MOTION FOR RELEASE**

The United States hereby respectfully requests permission to file a surreply to Defendant Caldwell’s reply in support of his request to modify conditions of release, ECF 544. Defendant Caldwell addresses a new issue in his reply, namely, statements allegedly made by undersigned government counsel during a reverse proffer. The government therefore requests the opportunity to respond on this unique issue. Undersigned counsel consulted with Defendant Caldwell’s attorney, who does not object to the filing of a surreply.

Respectfully submitted,

MATTHEW M. GRAVES  
UNITED STATES ATTORNEY  
D.C. Bar No. 481052



By: Kathryn L. Rakoczy  
Assistant United States Attorney  
D.C. Bar No. 994559  
Ahmed M. Baset  
Troy A. Edwards, Jr.  
Jeffrey S. Nestler  
Assistant United States Attorneys  
Louis Manzo  
Special Assistant United States Attorney  
U.S. Attorney’s Office for the District of Columbia  
555 4th Street, N.W.

Washington, D.C. 20530

*/s/ Alexandra Hughes*

---

Alexandra Hughes

Justin Sher

Trial Attorneys

National Security Division

United States Department of Justice

950 Pennsylvania Avenue

NW Washington, D.C. 20004

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA )  
 )  
 v. ) No. 1:21-cr-28-1 (APM)  
 )  
 THOMAS CALDWELL, )  
 )  
 Defendant. )

**GOVERNMENT’S SURREPLY TO DEFENDANT’S REPLY  
IN SUPPORT OF REQUEST TO MODIFY CONDITIONS OF RELEASE**

Defendant Thomas Caldwell’s motion to modify conditions of release should be denied in part and granted in part, as explained in greater detail in the government’s initial response, ECF 533. The representations made in the defendant’s Reply, ECF 544, regarding statements allegedly made by undersigned government counsel during a reverse proffer session, are inaccurate. The true nature of the evidence discussed during the reverse proffer counsels strongly against any lightening of the restrictions on Defendant Caldwell’s movements.

In his Reply, Defendant Caldwell claims that, at a reverse proffer on October 5, 2021, undersigned government counsel was asked whether there was any proof or evidence that Caldwell or his co-defendants devised a plan to specifically attack the Capitol on January 6, 2021, and responded, simply, “No.” ECF 544 at ¶ 7. That is false. In fact, undersigned government counsel showed Defendant Caldwell and his counsel Defendant Caldwell’s own words stating that he formed an agreement with those around him on January 6, 2021, to “storm” and “take” the Capitol, and that he was coordinating with his co-defendants:

- “Then we heard that Pence fucked us. Wr had over a million oeople here. Then the lying media said Trump supporters were breaking through barricades so i said if we’re going to get blamed, might as well do it ***so I grabbed up my American flag and said let’s take the damn capitol*** so people started surging forward and climbing

the scaffolding outside *so I said lets storm the place and hang the traitors. Everybody thought that was a good idea so we did.*” (Emphasis added.)

- “[W]e climbed the steps after breaking 2 rows of barricades, yhen got on the parapets and the people in front of me broke throgh the doors and started duking it out with the pigs who broke and ran. Then we started stealing the cops riot shields a d throwing fire extinguishers through windows. It was a great time.”
- “Most of my Oathkeeper pals went to the other side of the capitol because it was so darn crowded where I was. They were giving me live go-pro feeds from their side. . . . [O]n the other side, oathkeepers had pushed the doors open 3 sets of doors as you go in that side and actually made it to the rotunda.”

Additionally, during the reverse proffer, undersigned counsel showed Defendant Caldwell and his counsel numerous statements showing Defendant Caldwell’s intent and preparations to join with his co-defendants to use any means necessary, up to and including the use of force, to stop the lawful transfer of power from President Trump to President Biden. Many of these statements showed a focus on the proceedings of January 6, 2021, although they did not contain an explicit reference to forcibly taking control of the Capitol. These statements included but were not limited to:

- Defendant Caldwell’s December 4, 2020 message to Person Three: “[M]aybe I should be planning a MUCH bigger op, for like when we have to roll into town to actually save the Republic.”
- Person Three’s December 21, 2020 message to Defendant Caldwell providing a link to Person One’s Open Letter to President Trump, in which Person One implored President Trump to invoke the Insurrection Act and issue a “call to arms” to groups like the Oath Keepers to help him stop President Biden from assuming

the presidency. Evidence from Defendant Caldwell's phone, which has been provided to Defendant Caldwell's counsel in discovery, suggest Defendant Caldwell clicked on the link sent by Person Three.

- Defendant Caldwell's December 22, 2020 message to Person Five (the leader of the chapter of Oath Keepers to which Person Three belonged): "Spoke with [Person Three] last night. I will be at the march on the 6<sup>th</sup>. I have booked a hotel room in arlington. We do not yet know what may go down but this room gives us a spot to stage materials should things go high order. 10 minutes from the potomac. [Person Two] and I will be there 5<sup>th</sup> and 6<sup>th</sup>. Wanted you to know this for contingency planning. Close hold you and [Person Three] only for now, pls."
- Defendant Caldwell's January 1, 2021 message to co-defendant Donovan Crowl letting him know that Person Three had booked a room at the same hotel where Caldwell, Crowl, and co-defendant Jessica Watkins would be staying and that Person Three "will be the quick reaction force" and "will have the goodies in case things go bad and we need to get heavy." Defendant Caldwell also noted that the hotel had "quick access to the city."
- Person One's December 25, 2020 message to the "OKFL Hangout" Signal chat in which he stated, in pertinent part, "If Congress rubber stamps an unconstitutional fraud, President Trump must defend the Constitution and we URGE him to use the Insurrection Act to do so. And we will support him with our boots on the ground . . . . And he needs to know that if he fails to act, then we will. He needs to understand that we will have no choice."
- Defendant Caldwell's December 31, 2020 Facebook comment stating, "It begins for real Jan 5 and 6 on Washington D.C. when we mobilize in the streets. Let them

try to certify some crud on capitol hill with a million or more patriots in the streets.

This kettle is set to boil...[.]”

- Numerous messages showing Defendant Caldwell’s efforts to procure a boat so that “we could have our Quick Response Team with the heavy weapons standing by, quickly load them and ferry them across the river to our waiting arms.”
- Defendant Caldwell’s January 3, 2021 message to Person Three letting Person Three know, “I’m calling it a night. Got feelers out on the boat idea, will finish new map tomorrow. Early wake up full day tomorrow. Sleep well, bro: CAG is o the case!”
- Defendant Caldwell’s January 4, 2021 messages to Person Three, sending him maps showing how to get from the hotel location in Arlington, Virginia, into Washington, D.C., to the “target area.”

Finally, Defendant Caldwell’s Reply asserts that, at the reverse proffer, undersigned government counsel was asked to identify the “video” of evidentiary value that Defendant Caldwell allegedly destroyed/unsent, and undersigned government counsel “indicated that law enforcement did not recover the video and, hence, was unaware of the video’s content.” ECF 544 at ¶ 8. While the video has not been recovered, because Defendant Caldwell removed it, undersigned counsel pointed out that the video was sent in a thread between Defendant Caldwell and co-defendant Crowl in which the two were earlier sending each other photos and videos documenting their actions at the Capitol on January 6, 2021. The government also showed counsel where the Facebook records suggest the video was “Removed by Sender” on January 14, 2021, the day that Crowl and Watkins traveled from Ohio to Virginia to stay with Caldwell, and Caldwell directed them to “double back an exit or two at least twice to make sure you’re not followed[.]”

**CONCLUSION**

The information actually provided by the government to defense counsel during the reverse proffer paints a picture of the defendant's involvement in this conspiracy that cautions strongly against lessening the restrictiveness of his conditions of release. WHEREFORE, the United States respectfully submits that an easing of Defendant Caldwell's property confinement is not appropriate and requests that his motion to modify conditions of release be denied in that respect, but granted in part to permit him to utilize the Internet *solely* to review discovery and correspond with his counsel in this case.

Respectfully submitted,

MATTHEW M. GRAVES  
UNITED STATES ATTORNEY  
D.C. Bar No. 481052

By:

  
\_\_\_\_\_  
Kathryn L. Rakoczy

Assistant United States Attorney  
D.C. Bar No. 994559

Ahmed M. Baset

Troy A. Edwards, Jr.

Jeffrey S. Nestler

Assistant United States Attorneys

Louis Manzo

Special Assistant United States Attorney

U.S. Attorney's Office for the District of Columbia

555 4th Street, N.W.

Washington, D.C. 20530

/s/ Alexandra Hughes

Alexandra Hughes

Justin Sher

Trial Attorneys

National Security Division

United States Department of Justice  
950 Pennsylvania Avenue  
NW Washington, D.C. 20004