

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

UNITED STATES OF AMERICA,

v.

ETHAN NORDEAN, et al.,

Defendants.

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) Case No. 1:21-cr-175-TJK
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**NOTICE OF DEFENDANT NORDEAN’S SEALED SUPPLEMENTAL FILING
REGARDING JENCKS MATERIAL BEARING ON MOTIONS *IN LIMINE* AND
SEALED MOTION TO LIFT SENSITIVITY DESIGNATION**

Defendant Nordean, through his counsel, files this notice of his under-seal filing regarding Jencks material designated “sensitive” by the government and his under-seal motion to lift the sensitivity designation. ECF No. 567.

As Nordean’s under-seal filing indicates, on November 28 the government made its production of witness statements and impeachment materials pursuant to 18 U.S.C. § 3500 and Federal Rule of Criminal Procedure 26.2. Statements from virtually every civilian witness for the government contradict key representations and arguments made in its publicly filed motions, including the government’s claim that Defendants’ pre-January 6 “planning” contemplated activities at the Capitol Building that day. By placing sensitivity designations across hundreds of pages of these statements, the government prevents the Defendants from filing, and the public from seeing, them. The government says this is to protect its witnesses. To the contrary, limiting scrutiny of the fact that several individuals pleaded guilty to conspiracy charges despite making exculpatory statements under penalty of prosecution does not protect those witnesses; it exacerbates the significant harm they have already incurred.

Dated: December 4, 2022

Respectfully submitted,

/s/ David B. Smith

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Certificate of Service

I hereby certify that on the 4th day of December, 2022, I filed the foregoing notice with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

Jim Nelson
Assistant United States Attorney
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And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith

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