

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
v. : Case No. 1:21-cr-00247 (TFH)
 :
BRADLEY WAYNE WEEKS, :
 :
Defendant. :

GOVERNMENT’S OPPOSITION TO THE DEFENDANT’S
MOTION FOR BILL OF PARTICULARS

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this opposition to the defendant’s Motion For Bill of Particulars. For the reasons set forth herein, the government requests that this Court enter an order denying the defendant’s request.

Factual and Procedural Background

1. Congress enacted a prohibition on “Tampering with a record or otherwise impeding an official proceeding” in Section 1102 of the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745, 807, and codified it within the pre-existing Section 1512 as subsection (c). That prohibition applies to

(c) [w]hoever corruptly--

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object’s integrity or availability for use in an official proceeding; or

(2) *otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so.*

18 U.S.C. § 1512(c) (emphasis added).

2. In November 2020, Weeks discussed electoral votes and the importance of the state legislatures with a friend. Weeks also started a Stop the Steal Facebook group which he stated had about 15,000 patriots who were “fed up.”

3. On December 23, 2020, Weeks wrote in a text message, “Danny Carlton and I are going to DC for January 6 protest/revolution. We will be packing. This is it! Would love to have you there if you can make it. They're expecting millions. Trump has asked for as many people to attend as possible. It's either going to be the biggest victory party the world has ever seen or we're going to burn the whole fucking thing down.”

4. On December 19, 2020, Weeks signed up to receive text updates from Stop the Steal organizer Ali Alexander including:

- 12/26/2020 – It's Christmas Day and still the GOP establishment won't stop its betrayal. John Thune is whipping votes *against* Trump ahead of Jan 6 challenge. Read the full story and pledge to stop him (he's up in 2022): <https://donorbox.org/stop-john-thune-2022>
- 1/2/2021 – StopTheSteal.us and your efforts are working. Senators now on board with the #DoNotCertify caucus we built with Rep. Brooks:
Sens. Ron Johnson (R-Wis.), James Lankford (R-Okla.), Steve Daines (R-Mont.), John Kennedy (R-La.), Marsha Blackburn (R-Tenn.), and Mike Braun (R-Ind.), as well as...
- 1/2/2021 –...Sens.-elect Cynthia Lummis (R-Wyo.), Roger Marshall (R-Kan.), Bill Hagerty (R-Tenn.) and Tommy Tuberville (R-Ala.)
We even have a secret one up our sleeves too ;)
~Ali Alexander, STS 2020 founder
- 1/4/2021 – After aggressive public and private urging by StopTheSteal.us, Sen. Kelly Loeffler, who is up for election tomorrow, comes out for OBJECTING on Jan 6th! We worked very hard for this one. Momentum!

~Ali A & Alex B

- 1/6/2021 – Trump just finished! We are on our way to the Capitol. Join Stop The Steal as we demand that our Representatives #DoNotCertify! See you there ~Ali Alexander, Stop The Steal

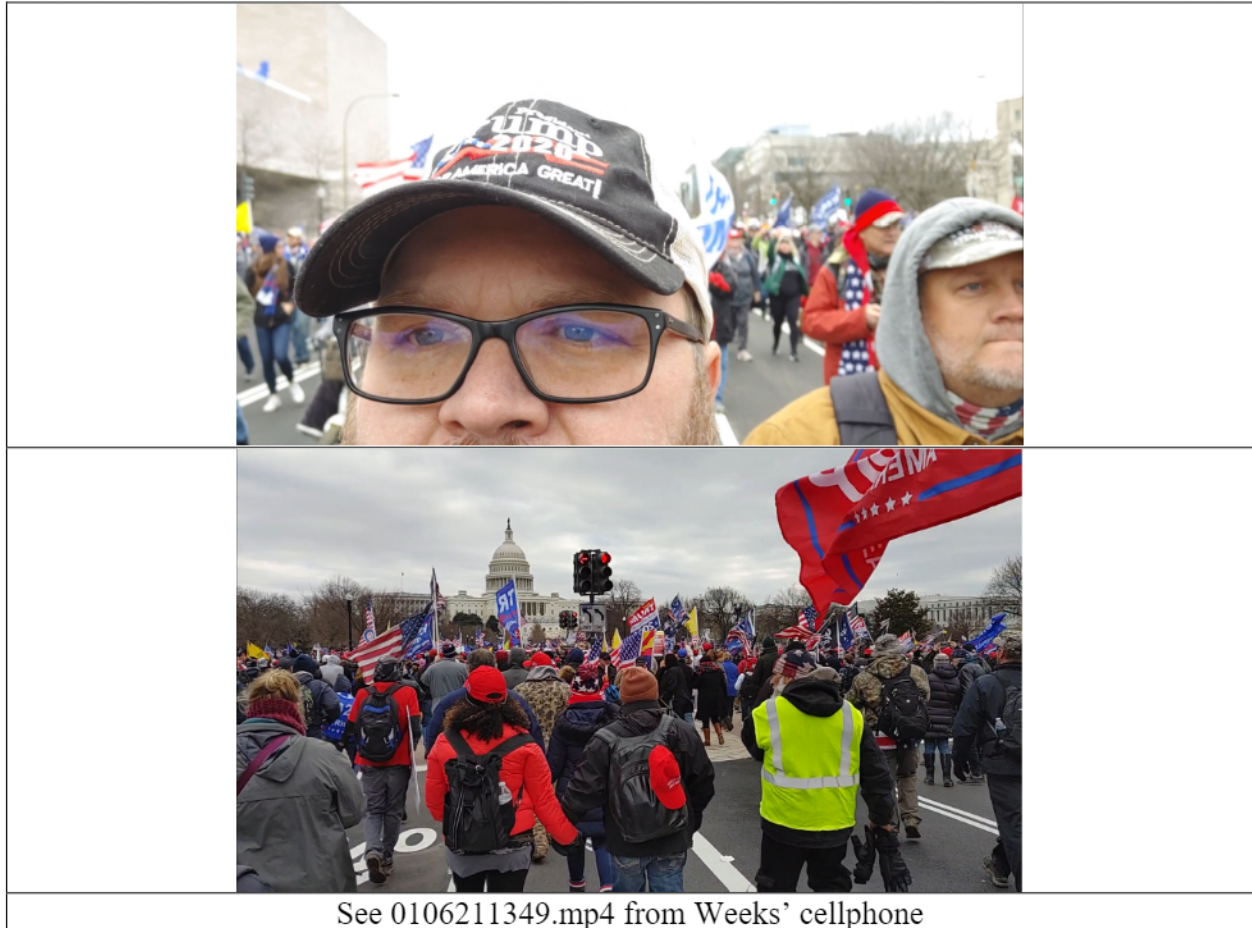
5. On January 3, 2021, Weeks sent a person a text attaching a statement from Congresswoman Kat Cammack regarding an objection to be lodged to the electoral college certification. Weeks stated in the body of the text, “Katt is on board 160 congressmen and 16 senators so far”. Also on January 3, 2021, another friend also texted him regarding challenging the electors.

6. On January 5, 2021, Weeks and Jonathan Daniel “Danny” Carlton (“Carlton”) drove from Florida to the D.C. area. Weeks inquired of his wife via WhatsApp message about the location of his medication in his bags, and Weeks’ wife replied directing him to the inside zipper on the same side of the bag where the shotgun shells are. Weeks phone contains a photo from January 4, 2021 of two long guns and several boxes of ammunition stacked on top of a bed.

7. On January 6, 2021 at 1:00 p.m., a Joint Session of the United State Congress, consisting of the House of Representatives and the Senate, convened in the United States Capitol building. The Joint Session assembled to debate and certify the vote of the Electoral College of the 2020 U.S. Presidential Election.

8. On January 6, 2021, Weeks and Carlton attended the rally at the Ellipse, then marched to the Capitol Building. As they moved from the Washington Monument toward Constitution Avenue, Weeks filmed a video of the crowd and stated, “We are marching to the Capitol building, Ladies and Gentleman, to show these Congressmen who runs America.” See 0106211314.mp4. Weeks, wearing black glasses on the left in the image below, filmed another

video as they walked on Pennsylvania Avenue to the Capitol just before 3rd Street, N.W., Washington, D.C. Carlton walked alongside him in the crowd with the Capitol fully visible to their front. The images below are excerpts from this video.



See 0106211349.mp4 from Weeks' cellphone

9. They arrived at the Capitol grounds just before 2:00 p.m. with a large group of rioters in the northwest lawn of the Capitol. The image below shows the general area where Weeks and Carlton were standing at 2:03 p.m. as seen from the Capitol.



Lawn north of the Northwest Stairs around 2:00 p.m.

There, they observed a crowd that had been violently attacking officers of both the U.S. Capitol Police and the Metropolitan Police Department, purloining bike rack fencing to use as ladders to scale the Capitol walls, and destroying the tarps surrounding the scaffolding over the northwest stairs. Weeks and Carlton appear to be filming towards the location where the MPD officers had just moved away from their attackers.



<https://www.youtube.com/watch?v=tNl8-SKNrPA> at 8m, 6s into the video

Disclosed as My DC Experience – Capitol.wmv

10. Around this time, police officers deployed tear gas cannisters into the crowd to try to disperse their attackers. Referring to one of those cannisters, some of the rioters responded by shouting, “Pick it up and throw it!” and “Throw it back at the Capitol!” which one of them did. Instead of moving away from the area, Weeks moved closer, took off his ball cap, donned a pullover full face mask, and settled in as the members of the crowd shouted, “Fight for Trump! Fight for Trump! Fight for Trump!”



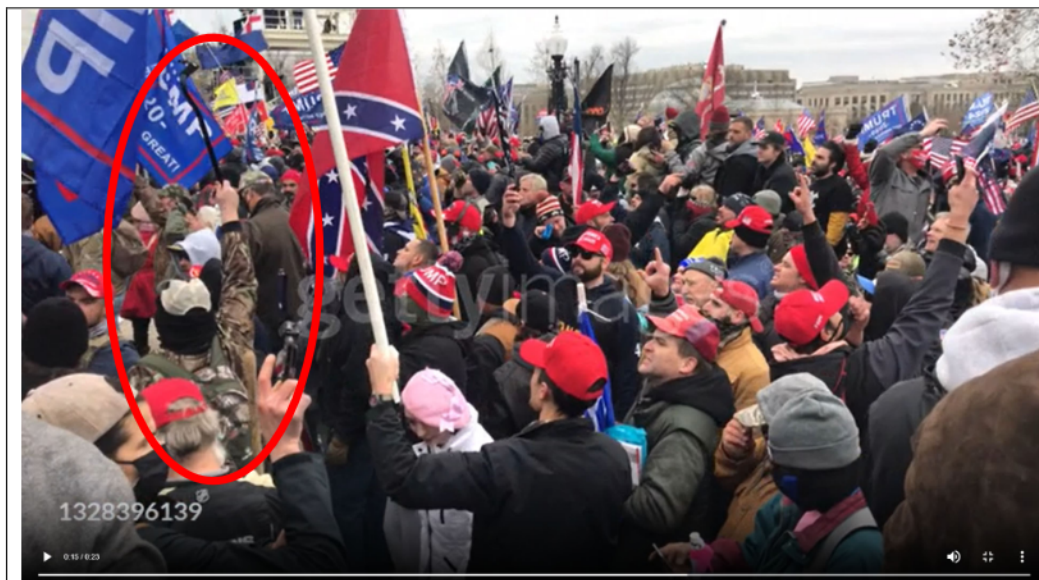
Video from Defendant Blake Reed – screenshots at 2m 24 s to 2m 38s into the video

Disclosed as 20210106_140204.mp4

Weeks makes a forward motion with his arm several times, then moves closer to the Capitol building.



Upper Terrace NW approx. 2:06 p.m. – zoomed U.S. Capitol Surveillance footage
11. Weeks joins the chants of “USA, USA, USA” while holding a cane aloft.



Disclosed as gettyimages-1328396139-640_adpp.mp4

<https://www.gettyimages.com/detail/video/washington-dc-on-january-6-pro-trump-supporters-claiming-news-footage/1328396139?adppopup=true>

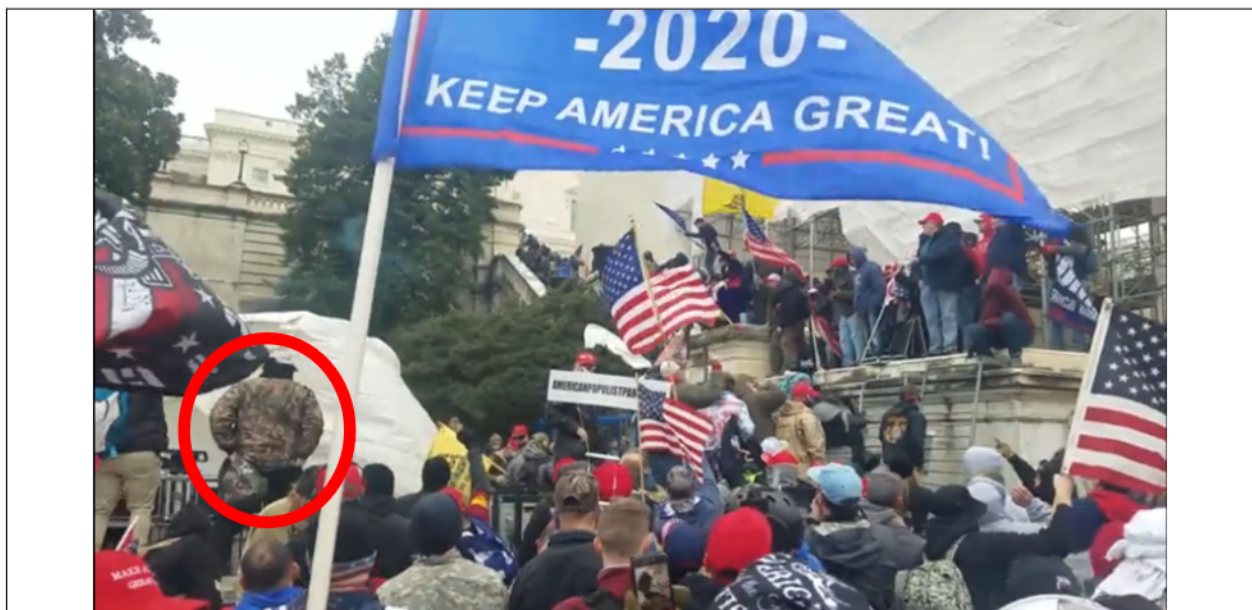
Weeks aided rioters effected by the chemical irritants by providing water bottles and by pouring water on the eyes of a man suffering from the tear gas. Weeks later told his wife via WhatsApp message that he helped some patriots by playing medic.



12. At 2:09 p.m., the rioters on the northwest stairs and its balustrade finally broke through the line of U.S. Capitol Police that had been holding them at bay.



Weeks hops up onto a raised area joining a line to access overturned purloined bike rack fencing to get up onto the north balustrade of the northwest stairs. Weeks then makes several excited gestures with his arm pointing towards the Capitol building where the rioters have successfully overrun the United States Capitol Police.





2:04 p.m. – What Parler Saw During the Attack – Pro Publica
Disclosed as U4cg0Dfgtz12_cvt.mp4
screenshots at 00:30 and 00:37



See also <https://www.youtube.com/watch?v=8Vh8wPeo6Jk&t=343s>
screenshot at 08:01

Disclosed as Trump Supporters Storm Capitol Building during
January 6 Insurrection - 4K Footage.wmv

Weeks then turns towards out towards the huge crowd of rioters on the west lawn urging them
closer to the Capitol building with a come here arm gesture.

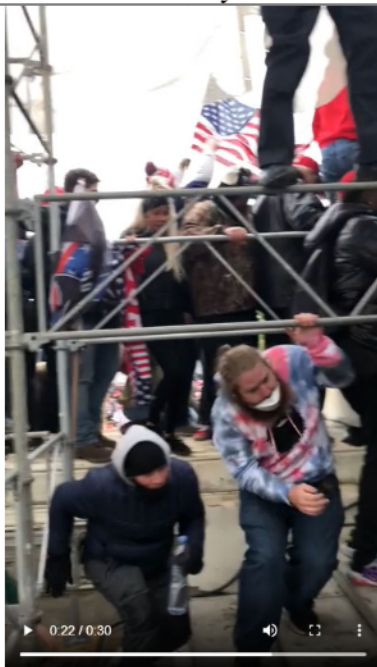


Disclosed as Lisa Bennatan_1346958228639379457.mp4
from the January 6 Archive
Screenshot at 00:39
screenrecording showing come here arm gesture → Clip 1346958228639379457 mp4

13. Weeks climbs the overturned bike rack fencing onto the balustrade of the northwest stairs.



Disclosed as WilliamTurton_1350272512597372932.mp4
from the January 6 Archive



2:13 p.m. – What Parler Saw During the Attack – Pro Publica

Disclosed as xHkUeMHMFx3F_cvt.mp4

https://d2hxwnssq7ss7g.cloudfront.net/xHkUeMHMFx3F_cvt.mp4

Weeks sent a WhatsApp message to his wife at 2:14 p.m. in which he says, “breached the Capitol.

I’m going in, we’re going in.” PTT-20210106-WA0015.opus. At 2:15 p.m., Weeks is visible climbing the upper portion of the northwest stairs without Carlton.



14. Weeks wanders around the northwest terrace taking video of the expansive crowd of rioters on the northwest lawn as well as the bike rack fencing, police tape, and an AREA CLOSED sign at the top of the steps where he had just walked not long before.

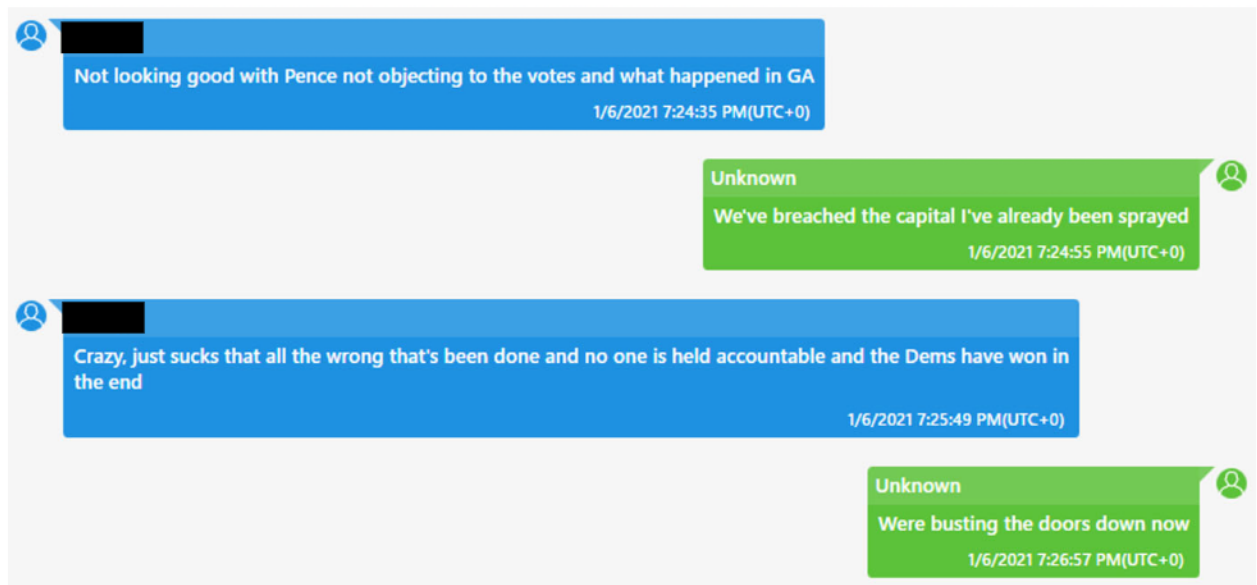


0106211416.mp4 – from Weeks' cell phone

Weeks walks around the northwest terrace near the Senate Wing Door, returning to the northwest stairs where he reunites with Carlton. They then move to the railing of the upper northwest terrace, where Carlton takes a seat.

15. Weeks sets up his camera to show his face and launches into a speech declaring both the actions he has taken and his intentions. “We’ve reached the steps. We’ve had to climb scaffolding. We’ve had to climb ladders. We’ve had to break things to get through, but we’ve gotten through. We’ve gotten through, and we are takin back the Capitol! We’re taking back our country! This is our 1776! This is where it’s gonna happen! This is where Tyranny will fall! This is where America will rise! Look at this, America! Look at this!” The camera is then turned again towards the lawn.

16. While on the upper northwest terrace, Weeks has the following conversation with a party whose name is redacted via text message between 2:24 p.m. and 2:26 p.m.:



Weeks takes a photo of people climbing the wall to gain access to the northwest terrace, then at 2:28 p.m. Weeks and Carlton walked together towards the Senate Wing Door, which, together with its adjacent windows, had been busted open by the mob around 2:13 p.m. The Capitol Police had regained control of the door and closed it at 2:27 p.m. Weeks and Carlton separate again, with Weeks remaining on the upper northwest terrace and Carlton joining the line of rioters who eventually violently force their way back into the building.

17. Weeks calls Carlton a few times and Carlton calls him back. In the meantime, Metropolitan Police have begun retaking portions of the upper northwest terrace. Carlton and Weeks have the following exchange via text message:

Table 1: SMS Conversation Between CARLTON and WEEKS				
From	To	Body	Time Stamp 01/06/2021	Time Stamp 01/06/2021
CARLTON	WEEKS	Where are you	3:02:09 p.m. (EST)	8:02:09 p.m. (UTC)

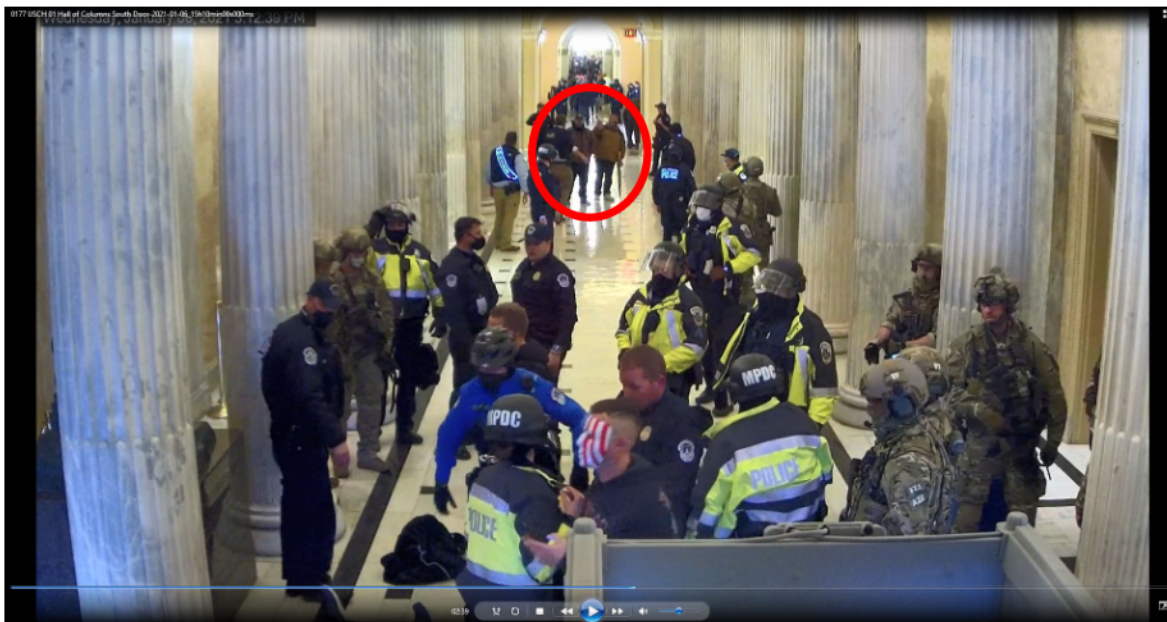
WEEKS	CARLTON	I'm all the way on the left side if you're looking at the caputal	3:02:37 p.m. (EST)	8:02:37 p.m. (UTC)
WEEKS	CARLTON	Where are you at	3:03:01 p.m. (EST)	8:03:01 p.m. (UTC)
CARLTON	WEEKS	Inside by the window we breached	3:03:44 p.m. (EST)	8:03:44 p.m. (UTC)
WEEKS	CARLTON	You're inside?	3:04:06 p.m. (EST)	8:04:06 p.m. (UTC)
CARLTON	WEEKS	Burning up and leg injuries	3:04:16 p.m. (EST)	8:04:16 p.m. (UTC)
CARLTON	WEEKS	Yeab	3:04:20 p.m. (EST)	8:04:20 p.m. (UTC)
CARLTON	WEEKS	Just stepped out for air	3:05:45 p.m. (EST)	8:05:45 p.m. (UTC)
CARLTON	WEEKS	If you're out stay out ill find you	3:07:28 p.m. (EST)	8:07:28 p.m. (UTC)
WEEKS	CARLTON	I'm isinside now	3:08:45 p.m. (EST)	8:08:45 p.m. (UTC)
CARLTON	WEEKS	Tell me where to meet	3:08:51 p.m. (EST)	8:08:51 p.m. (UTC)

Weeks then entered through the Senate Wing door at 3:08 p.m., and they reunited within sight of the Senate Wing Door at 3:09 p.m.

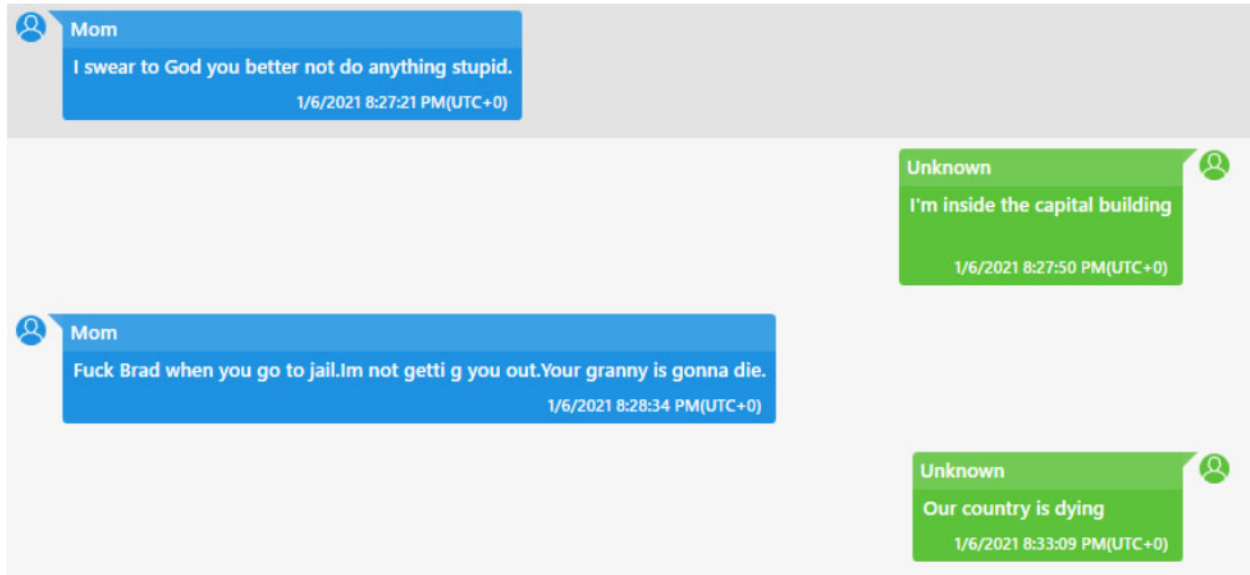


18. Instead of leaving the Capitol through the door they had just entered which was still within view from where they were, Carlton and Weeks turned and moved further into the building.

They walked through to the Crypt where Weeks joined a crowd of rioters chanting. Then they walked all the way to the Hall of Columns on the south side of the Capitol. The images below show Weeks circled in red as he made his way through the Capitol.



19. After reaching the Hall of Columns and seeing the police officers there, Carlton and Weeks turned back and retraced their steps through the Capitol, walking again through the Crypt before exiting through the Senate Wing Door at around 3:29 p.m. Weeks had the following text exchange with his mother just before and after he left the Capitol building (2:27 p.m. to 2:33 p.m.):



They spent roughly 20 minutes inside the Capitol.



Carlton and Weeks then lingered on the Upper West Terrace outside the Capitol until at least 3:52 p.m., where they posed for the photo below.



On or about March 24, 2021, a grand jury returned a five count indictment charging the Defendant with the following offenses: 18 U.S.C. §§ 1512(c)(2), 2 (obstruction of an official proceeding and aiding and abetting); 18 U.S.C. §§ 1752(a)(1) and (2) (entering and remaining in a restricted building or grounds and disorderly and disruptive conduct in a restricted building or grounds,); and 40 U.S.C. §§ 5104(e)(2)(D) and (G) (disorderly conduct in a Capitol building and parading, demonstrating, or picking in a Capitol building). See ECF No. 17. A jury trial is scheduled for October 25, 2022.

Argument

An indictment need only include “a plain, concise, and definite written statement of the essential facts constituting the offense charged,” but a court may, in its discretion, “direct the government to file a bill of particulars” clarifying the allegations in the indictment. Fed. R. Crim. P. 7(c)(1), (f). A bill of particulars “ensure[s] that the charges brought against a defendant are stated with enough precision to allow the defendant to understand the charges, to prepare a defense, and perhaps also to be protected against retrial on the same charges.” *United States v. Butler*, 822 F.2d 1191, 1193 (D.C. Cir. 1987). It is not required, however, if the indictment “is sufficiently specific, or if the requested information is available in some other form.” *Id.*; see *United States v. Lorenzana-Cordon*, 130 F. Supp. 3d 172, 179 (D.D.C. 2015) (denying motion for bill of particulars and noting that the government had provided extensive discovery that “allows Defendants to adequately prepare for trial”).

A bill of particulars “is not a discovery tool or a devise for allowing the defense to preview the government’s theories or evidence.” *United States v. Ramirez*, 54 F. Supp. 2d 25, 29 (D.D.C. 1999); see also *United States v. Brodie*, 326 F. Supp. 2d 83, 91 (D.D.C. 2004) (same). Rather, a bill of particulars “is intended to give the defendant only that minimum amount of

information necessary to permit the defendant to conduct his own investigation and not to provide the defendant with the fruit of the government’s investigation.” *United States v. Sanford Ltd.*, 841 F. Supp. 2d 309, 316 (D.D.C. 2012) (internal quotation marks and citation omitted, emphasis in original). Therefore, a bill of particulars “properly includes clarification of the indictment, not the government’s proof of its case.” *United States v. Martinez*, 764 F. Supp. 2d 166, 173 (D.D.C. 2011) (internal quotation marks and citation omitted); *United States v. Savoy*, 889 F. Supp. 2d 78, 115 (D.D.C. 2012) (same); see also *United States v. Taylor*, 17 F. Supp. 3d 162, 178 (E.D.N.Y. 2014) (bill of particulars “may not be used by the defense as a fishing expedition or to force the government to reveal all its evidence before trial”).

Applying this principle, judges of this Court have consistently denied motions for a bill of particulars where, as here, the motion seeks details about the nature of the government’s evidence. Thus, for example, in *United States v. Han*, 280 F. Supp. 3d 144, 149 (D.D.C. 2017), the Court denied a motion for a bill of particulars requesting information about the basis for fraud and tax charges against the defendant, including the precise representations allegedly made by the defendant and the amount of taxes allegedly owed. The Court explained that the requested information had already been provided to the defendant in discovery and elsewhere, and a “bill of particulars is meant to allow a defendant to properly prepare for trial, not provide a method to force the prosecution to connect every dot in its case.” *Id.*

Similarly, in *Brodie*, the Court denied a motion for a bill of particulars requesting “the circumstances surrounding the alleged acts” of fraud committed by the defendants as well as “other evidentiary details.” 326 F. Supp. 2d at 92. The Court reasoned that the charges set forth in the indictment were “detailed and alleged with particularity” and “the discovery provided by

the government has been voluminous,” and therefore there was “no reason for any further particularization of the overt acts.” *Id.*

Finally, in *Sanford Ltd.*, the Court denied a motion for a bill of particulars regarding the “substance, time, place and date” of allegations regarding falsification of records and other charges against a corporate defendant. 841 F. Supp. 2d at 315. The Court explained that “the general rule in conspiracy cases is that the defendant is not entitled to obtain detailed information about the conspiracy in a bill of particulars.” *Id.* at 317 (internal quotation marks and citation omitted). Accordingly, the Court denied the defendant’s request for information about the identities of its employees alleged to have participated in the conspiracy and other details about the overt acts charged in the indictment. *Id.* at 317-18.

The same result is appropriate here for three reasons. First, the indictment provides sufficient detail outlining the allegations against the Defendant. See *Mejia*, 448 F.3d at 445 (no bill of particulars required where the superseding indictment identified, among other things, the object of the charged conspiracy, the conspiracy’s “time period,” the applicable mens rea, and locations where conspirators acted). Along with providing a specific date for the alleged conduct, the indictment language tracks closely that of the applicable statutes. Nothing in the indictment’s language is vague, unclear, or lacking in specificity, especially in light of the Defendant’s recorded conduct. If the Defendant believes the government’s evidence is insufficient, that the statutes themselves are vague as applied to his conduct, or that he has a Constitutional right to behave as he did, then he should move for the appropriate relief at the appropriate time—as he has already done in part.

