

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

-v-

CHRISTOPHER ALBERTS,

Defendant.

Case No. 21-cr-0026 (CRC)

**DEFENDANT CHRISTOPHER ALBERTS' REPLY TO  
THE UNITED STATES' OPPOSITION TO  
DEFENDANT'S SECOND MOTION TO DISMISS**

NOW COMES Defendant Christopher Michael Alberts (“Alberts”) with his response to the government’s recent Opposition to Defendant’s Second Motion to Dismiss (Dkt. No. 69), filed 9/15/22.

**I. THE GOVERNMENT’S OPPOSITION UNDERSTATES THE  
SIMILARITY BETWEEN ALBERTS’ ARREST FOR GUN  
POSSESSION AND THE ARREST OF ANTI-TRUMP ACTIVIST  
LESLIE GRIMES.**

Alberts, a Trump supporter, is being prosecuted for various gun possession offenses while a similarly situated gun possessor, Leslie Grimes, has had her gun charges dropped. Grimes, like Alberts, was arrested on the night of Jan. 6, 2021, for identical gun charges just blocks away from Alberts’ arrest, and at virtually the same time. Yet the DOJ has dropped all charges against Grimes—a Trump hater. This differential treatment of nearly identical individuals—based on their different politics—represents discrimination of the lowest order.

First, defendant Alberts must express disagreement regarding a few facts described in the government’s Opposition. On pages 9 to 10, the government writes that “*The Detroit News* article made no reference to the individual’s [Grimes’] political

affiliation, much less establishes the government's awareness of it at the time the government declined to bring charges." But in fact the article stated "Leslie attends Black Lives Matter protests and is "out there campaigning for what (she) believes in." "Leslie's arrest and release came as a climax to years of disillusionment with the state of American politics for Robert Grimes, [Leslie's father]." "[Robert Grimes] said he's dealt with backlash in the northern Michigan town due to the family's political beliefs . . . ."

It is hardly the case that the article "made no reference to the individual's political affiliation," except in the most abstract sense. It is conceivably possible that Grimes was a Libertarian, a Green Party voter, or even a Never-Trumper Republican, but the *Detroit News* article made clear that Grimes was a transgendered filmmaker who travels the country attending and supporting anti-Trump protests and supporting protests against Trump events.

The 54-year-old Cadillac man [Grimes' father, Robert] said his whole family is opposed to the sitting president [Trump], and it's been "horrible" to see his daughter's name associated with violent acts committed in President Donald Trump's name.

"Moreover," writes the government, "the article identifies a permissible reason for the government's declination in that case: insufficient evidence that the individual knew the firearm and ammunition were in the trunk of the car [Grimes] was driving.

But while the article did say Grimes denied knowing about the gun in her trunk, the article indicated Grimes "took responsibility" for the gun. And, of course, there is a long line of cases standing for the proposition that officers, prosecutors,

judges and jurors may infer that drivers of cars either know or have “willful blindness” that the trunks of their own cars contain contraband. *See, e.g., United States v. Heredia*, 483 F.3d 913, 923 (9th Cir. 2007).

Defendant Alberts’ alleged act of possessing a handgun in a curfew zone late in the evening of Jan. 6 is virtually identical in every material essence to Leslie Grimes’ alleged possession of a handgun in the same curfew zone at around the same time of night on Jan. 6. Yet Trump-supporting Alberts is being prosecuted by the Democrat Justice Department while Trump-hating Leslie Grimes is not.

Another Jan. 6 defendant—actually filmed with a gun—has had charges dropped.

Then as this reply was prepared for filing came news that another protestor at Jan. 6 has had all charges dropped or was never charged at all despite being filmed and photographed wearing a gun. Luke Robinson was the only protestor filmed with a gun on Jan. 6. Robinson was originally listed on the FBI’s Most Wanted list. But like Ray Epps, Mr. Robinson has had all charges removed and has been removed from the FBI’s Most Wanted website.<sup>1</sup>

So the Justice Department is in the practice of prosecuting citizens like defendant Alberts while selectively dropping charges of others similarly situated based on their politics or their loyalty to the government.

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<sup>1</sup> Jim Hoft, “DEEP STATE CAUGHT: Luke Robinson, AKA #GingerGun, Was Only Protester Filmed with a Gun on Jan. 6, The FBI Later Removed Him from their Most Wanted List — New Photo Shows Him Wearing an Earpiece on J6,” The Gateway Pundit, Sept. 25, 2022, <https://www.thegatewaypundit.com/2022/09/deep-state-caught-luke-robinson-aka-gingergun-protester-filmed-gun-jan-6-fbi-later-removed-wanted-list-new-photo-shows-wearing-earpiec/> (accessed 9/25/2022).

## II. NEVER HAS THE JUSTICE DEPARTMENT TREATED PROTESTORS AT THE CAPITOL IN THE WAY THE JUSTICE DEPARTMENT IS TREATING JANUARY 6 DEFENDANTS

While the government “represents that Alberts’s political views played no role in [DOJ’s] charging decisions in this case,” the government’s own actions regarding similar facts at other times belies the government’s claim that “[i]t was Alberts’s conduct – not his views – that prompted his felony prosecution.”

Never. Literally never, has the Department of Justice treated protests and riots at the Capitol in this way. There have been hundreds of such protests, and some produced extensive damage to facilities and infrastructure and even bombings, killings, and gunfire at congressmen.<sup>2</sup> See, e.g., *Mahoney v. United States Marshals Serv.*, 454 F. Supp. 2d 21 (DDC 2006) (“[in] recent years . . . armed gunmen have stormed the Capitol building more than once”).<sup>3</sup>

In 1932, tens of thousands of veterans occupied and encamped on the Capitol grounds for weeks, demanding a bonus. Although the U.S. Army forcibly cleared the protestors from Capitol grounds and 135 people were arrested, those arrested

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<sup>2</sup> Laura Greggel, “10 times the US capital weathered political violence,” *Live Science*, Jan. 6, 2021 <https://www.livescience.com/political-violence-us-capital.html> (accessed 9/16/2022). pp. 4–8, 1968: Washington, D.C., riots: Following the Assassination of Martin Luther King Jr. on April 4, 1968, a four-day period of violent civil unrest erupted near the intersection of 14th and U Streets NW. Approximately 200 stores had their windows broken and 150 stores were looted, most of them emptied. Thirteen people were killed

<sup>3</sup> “List of Incidents of Political Violence in Washington, D.C.,” [https://en.wikipedia.org/wiki/List\\_of\\_incidents\\_of\\_political\\_violence\\_in\\_Washington,\\_D.C.](https://en.wikipedia.org/wiki/List_of_incidents_of_political_violence_in_Washington,_D.C.) (accessed 9/16/2022).



generally faced only misdemeanor charges; despite “angry packs h[olding] their ground, defiantly wielding clubs and iron bars, yelling profanities.”<sup>4</sup>

In 2015, Code Pink protestors took over and disrupted a hearing before the Senate Armed Services Committee, screaming “Arrest Henry Kissinger for war crimes!” and carrying signs spelling out their hatred of the former secretary of state.<sup>5</sup> No one was even arrested. In 2018, hundreds of protestors took over and disrupted the Capitol and occupied the Senate chamber and halls for hours.<sup>6</sup> This lengthy occupation of the Capitol forced senators and representatives to shelter in place in their offices for hours. Some three hundred protestors were arrested.<sup>7</sup> They ultimately paid \$50 fines.

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<sup>4</sup> See Wyatt Kingseed, “The Bonus Army Storm into Washington,” *History.net*, 6/12/2006, <https://www.historynet.com/wwi-bonus-army-protest-in-washington/> (accessed 9/16/2022)

<sup>5</sup> Sophia Rosenbaum, “McCain slams Kissinger protestors: ‘Get out of here you low-life scum’,” January 29, 2015, <https://nypost.com/2015/01/29/mccain-to-anti-kissinger-rabble-get-out-of-here-you-low-life-scum/>

<sup>6</sup> “Kavanaugh protestors arrested at Capitol, after thousands march on Supreme Court,” *Fox News*, Oct. 4, 2018 (“By Thursday afternoon, Capitol Police began arresting hundreds of protestors inside the Hart Senate Office Building who raised their fists and loudly started chanting “Kavanaugh has got to go.” Arrests were made after protestors began sitting down in the building’s atrium, refusing to cooperate with law enforcement. In all, some 302 protestors were arrested and charged with unlawfully demonstrating in Senate office buildings Thursday, police said.”). <https://www.foxnews.com/politics/kavanaugh-protesters-arrested-at-capitol-after-thousands-march-on-supreme-court> (accessed 9/22/2022).

<sup>7</sup> Sophie Tatum, “More than 300 protestors arrested as Kavanaugh demonstrations pack Capitol Hill,” CNN <https://www.cnn.com/2018/10/04/politics/kavanaugh-protests-us-capitol/index.html> (accessed 9/17/2022).



American law has always recognized that zealous and heated protest is part of people seeking redress of grievances at the U.S. Capitol.

The same is true of state capitols, which have also been the settings for tumultuous demonstrations and protests. In 1936 an army of up to 250 unemployed men occupied the New Jersey State Capitol in Trenton for eight days in protest over unemployment and poverty.<sup>8</sup> In 1967, Black Panthers took over the California State

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<sup>8</sup> Jon Blackwell, 1936: An 'army' seizes the Capitol, *The Trentonian*.

capitol and actually drove out the California legislature using semi-automatic M-1 Carbine rifles. The longest sentence served in the matter was one year in jail.



In 2014, pro-union protestors took over and occupied the Wisconsin Capitol for many days. “Thousands of protesters rushed to the ... forcing their way through doors, crawling through windows and jamming corridors.” “Protesters ripped the hinges of an antique oak door at the State Street entrance and streamed inside.”<sup>9</sup> As

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On April 21, 1936, for the first time since the Revolutionary War, a force calling itself hostile and insurrectionary occupied the state Capitol in Trenton. <http://www.capitalcentury.com/1936.html> (accessed 9/16/2022).

<sup>9</sup> Marc A. Thiessen “Opinion Democrats were for occupying capitols before they were against it,” *Washington Post*, January 14, 2021, <https://www.washingtonpost.com/opinions/2021/01/14/democrats-were-occupying-capitols-before-they-were-against-it/> (accessed 9/16/2022)

the crowd scoured the building looking for the offending legislators, police sneaked them out through an underground tunnel to a government building across the street. But a Democratic representative posted on social media that the Republican senators were escaping through the tunnels, so when the senators came up into the lobby, the mob was there waiting for them.

“The tall windows that framed the lobby were plastered with people yelling and banging on the glass,” we wrote. “They were trapped. -The senators hid under a stairwell, out of view, while the police ordered a city bus to pull up in front of the building. Officers then formed a human wall on the sidewalk, parting the sea of protesters and creating a pathway for the senators to reach the bus.” -Once the senators were on board, “the mob on the street began punching the windows and shaking the vehicle. ... The police told the senators and staff inside to keep their heads down in case a window shattered.”<sup>10</sup>

Police found dozens of .22-caliber bullets scattered across the Capitol grounds. The occupiers drew chalk outlines of fake dead bodies etched with [Governor] Walker’s name on the floor, and carried signs that read “Death to tyrants,” “The only good Republican is a dead Republican” and one with picture of him in crosshairs with the words, “Don’t retreat, Reload.”<sup>11</sup> There were no arrests or prosecutions.

In all of these protests, violent demonstrations, and mass occupations of the Capitol, never has the Justice Department embarked on a wholesale crusade to find and prosecute every conceivable potential violation of federal law. “[I]n most cases, probable cause to arrest defeats a claim of retaliatory arrest.” *Lund v. City of*

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*



*Rockford*, 956 F.3d 938, 941 (7th Cir. 2020). However, “the no-probable-cause requirement should not apply when a plaintiff presents objective evidence that he was arrested when otherwise similarly situated individuals not engaged in the same sort of protected speech had not been.” *Nieves v. Bartlett*, 139 S. Ct. 1715, 1728, 204 L. Ed. 2d 1 (2019).

### III. CONCLUSION

Capitols and lawmaking are like meat processing plants where sausage is made: the process isn't pretty and is governed by stridently opposing parties, unsavory characters and selfish interest groups, duplicity, negotiation and compromise.<sup>12</sup> Throughout history, Americans have engaged in contentious debate and conflict at the U.S. Capitol; but never before have people like Defendant Alberts faced years in prison for merely bringing their voices to the Capitol in vigorous advocacy for their political positions.

Unlike generations of demonstrators and petitioners who came before him, Alberts has been subject to a biased Justice Department driven by a partisan lust for retaliation and vindictiveness.

Accordingly, Alberts asks this Honorable Court to dismiss this indictment on grounds of selective prosecution and vindictiveness.

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<sup>12</sup> Peter Suderman, “NYT: Comparing Lawmaking to Sausage Making Is “Offensive to Sausage Makers,” Reason, Dec. 6, 2010 <https://reason.com/2010/12/06/nyt-comparing-lawmaking-to-sau/> (accessed 9/17/2022).



Dated: September 26, 2022

/s/ John M. Pierce  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 26, 2022, this motion and the accompany declaration was filed via the Court's electronic filing system, which constitutes service upon all counsel of record.

/s/ John M. Pierce  
John M. Pierce

**EXHIBITS**

Exhibit 1 (Detroit News story about Leslie Grimes, with all charges dropped)

Exhibit 2 (Gateway Pundit news story about Luke Robinson, with charges dropped or not filed).

# **EXHIBIT 1**

# The Detroit News

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## POLITICS

# Prosecutors won't proceed with charges against Michigan woman arrested during Capitol insurrection



**Riley Beggin**

The Detroit News

Published 7:48 p.m. ET Jan. 8, 2021 | Updated 3:59 p.m. ET Jan. 9, 2021

Prosecutors decided for now not to proceed with charges against Leslie Grimes, one of the six Michigan people arrested during the insurrection at the Capitol on Wednesday, according to a District of Columbia official with knowledge of the situation.

Grimes' father, Robert Grimes, told The Detroit News she was wrongfully arrested near a pro-Trump insurrection, which unfolded from a protest she and her Grand Rapids-area friends attended as counter-protesters.

Grimes was identified by the police as Logan Grimes when arrested. Grimes is a transgender woman who uses feminine pronouns, according to her father.

After spending a full day in a Washington, D.C., jail, Grimes headed back to Grand Rapids Friday, her father said. The 54-year-old Cadillac man said his whole family is opposed to the sitting president, and it's been "horrible" to see his daughter's name associated with violent acts committed in President Donald Trump's name.

Now that she's been released and a new presidential administration is around the corner, the elder Grimes said he's "hoping the poster child for chaos in America can just go somewhere and hopefully a lot of this starts to diffuse. And I'm hoping Leslie gets the chance at breathing room."

Leslie Grimes, 25, was one of six people from Michigan who were arrested by Washington Metropolitan Police Wednesday as a mob of Trump supporters stormed the Capitol building, destroying furniture and windows, fighting with police and rifling through offices of some of the nation's most powerful lawmakers.



The younger Grimes was arrested a few blocks north of the White House, just under two miles from the Capitol building under siege. She was charged with carrying a pistol without a license, carrying unregistered ammunition and carrying a large capacity ammunition feeding device — which Washington, D.C., law describes as a "magazine, belt, drum, feed strip, or similar device" that's capable of accepting more than 10 rounds of ammunition.

But that gun and ammunition didn't belong to Leslie, her father said — in fact, she didn't know it was there until the police discovered it.

If convicted, Grimes' charges could have put her behind bars for up to nine years or cost her more than \$27,000 in fines.

While the charges against her could still be pursued in the future, local law enforcement is facing the enormous task of tracking down the hundreds of rioters who ransacked the U.S. Capitol building, most of whom were allowed to leave without citation. At least 53 people have been charged in federal and Superior Court for charges related to the insurrection, according to the U.S. Department of Justice.

The other five people from Michigan were charged with breaking Washington Mayor Muriel Bowser's 6 p.m. curfew implemented as the rioting unfolded on the Hill. One was also charged with unlawful entry.

The group Leslie drove with to Washington had discussed bringing a firearm "as protection," Robert Grimes said, but "one of the individuals misled some people" and didn't tell the others that they had packed a gun in the trunk.

A Trump supporter near the site of the original protest kicked Leslie in the chest, knocking the wind out of her, Grimes said. Her friends picked her up and they fled in the vehicle, which was pulled over, he said. When police discovered the weapon, Leslie took responsibility for it, the father said

The friends "got away scot-free," Robert Grimes said. "I raised my daughter to show accountability and be truthful."

He added that she was a "gun hobbyist" as a child but always got the necessary licenses.

Leslie Grimes could not be reached for an interview Friday evening.

Leslie Grimes works on films and was in the city with her friends to protest against the Trump supporters and document the demonstration, Robert Grimes said. Leslie attends

Black Lives Matter protests and is "out there campaigning for what (she) believes in. But (she) didn't destroy any property, didn't cause any problems."

Thousands of Trump supporters gathered near the White House Wednesday morning to protest Congress' planned confirmation of Electoral College votes for Democratic President-elect Joe Biden. Trump spoke at the rally, repeating unproven claims of widespread election fraud.

The protest turned violent when hundreds of the president's supporters headed to the Capitol building, tussled with police, overran security barriers and broke windows to enter the building. Lawmakers, staff and journalists were locked down and then evacuated as protesters took over the chambers. A Capitol Police officer died from injuries, while a protester died from gunfire.

Leslie Grimes and her friends have gone "to a number of these events all over America saying, well, 'If they've got a right to scream and yell, we've got a right to say we disagree with you,'" Robert Grimes said.

"And then the last Facebook post we saw from (her) said (she) was heading to D.C. We were mildly concerned, but we didn't think the president of the United States would launch an insurrection."

Leslie's arrest and release came as a climax to years of disillusionment with the state of American politics for Robert Grimes, who shuttered the comic book shop and non-profit he ran with Leslie due to financial strain related to the COVID-19 pandemic. He said many who came into his shop refused to wear a mask and lashed out at him.

He said he's dealt with backlash in the northern Michigan town due to the family's political beliefs and, now, for the news reports about Leslie's arrest. For him, it's emblematic of a deep rift that's far from healing.

"This is wrong. Michigan needs to grow up. America needs to grow up. America was built on diversity. Live with it, deal with it, be a good person."

*rbeggin@detroitnews.com*

*Twitter: @rbeggin*

## **Featured Weekly Ad**

September 24<sup>th</sup> to 30<sup>th</sup> 2022

# **EXHIBIT 2**

## DEEP STATE CAUGHT: Luke Robinson, AKA #GingerGun, Was Only Protester Filmed with a Gun on Jan. 6, The FBI Later Removed Him from their Most Wanted List – New Photo Shows Him Wearing an Earpiece on J6

By Jim Hoft

Published September 25, 2022 at 7:20pm

348 Comments



Micajah Jackson is a US Marine war veteran who recently served time in an Arizona halfway house after he was arrested and convicted of walking inside the US Capitol on January 6, 2021.

He was flagged in, committed no violence, and when he was asked to leave he left.

Micajah Jackson pleaded guilty to one charge in November – parading, demonstrating, or picketing in the Capitol Building.

Marine veteran Micajah Jackson was sentenced to 90 days in a halfway house, 3 years probation, and \$500 and \$1000 fines.

**\*\* You can donate to [Micajah Jackson's Persecution Fund](#) here.**

Micajah peacefully walked inside the US Capitol which is a crime if you are a Trump supporter but **not if you are a Democrat Party supporter.**

In January, Micajah confronted **Luke Phillip Robinson** aka. **“Ginger Gun”** in Arizona.



**Robinson was at the Jan 6 protests. He was the ONLY known protester that day out of a million Trump supporters filmed with a gun.**

Phillip Robinson was put on the FBI most wanted list as #343 after the protest.

CAPITOL THREAD [#gingergun](#) [#seditionhunters](#)

under scaffolding near the western steps with what looks positively like a concealed firearm

-denim jacket fur collar



-freedom US flag camo cap

-red/burgundy hoody

Further actions or locations unknown. <https://t.co/CNS1wWu8M9>

TS 6:00 [pic.twitter.com/xo6ULZOFo8](https://pic.twitter.com/xo6ULZOFo8)

- error\_error19404 (@errorerror19404) **January 14, 2021**

The Daily Beast was **proud to discover his identity - Luke Robinson**

**The FBI later removed Luke from their most-wanted list for some reason.**



Photograph #345 - AFO D



Photograph #345 - AFO C



Photograph #345 - AFO B



Photograph #345 - AFO A



Photograph #344 - AFO B



Photograph #344 - AFO A



Photograph #342B

**Where is #343?**



Photograph #342A



Photograph #341 - AFO F  
(Arrested)



Photograph #341 - AFO E  
(Arrested)

Luke Robinson was one of three operatives taken off of the FBI most wanted list from January 6, along with Ray Epps and Megan Paradise.



According to J6 defendant, Micajah Jackson, Luke Robinson was also wearing an earpiece at the Jan. 6 protests.

On Sunday Micajah Jackson sent us a photo of Ginger Gun wearing an earpiece on January 6.



And Luke Robinson is the second January 6er, along with Ray Epps, who was dropped from the FBI most-wanted list. They are two of the three protesters who had their photos and number removed from the list.



In January Micajah confronted Luke Phillip Robinson aka. "Ginger Gun" in Arizona. Robinson was at the Jan 6 protests. He **had a firearm and was wearing an earpiece**. The FBI later removed him from their most-wanted list.

Via **The KFK Report**:

**TheJFKReport**

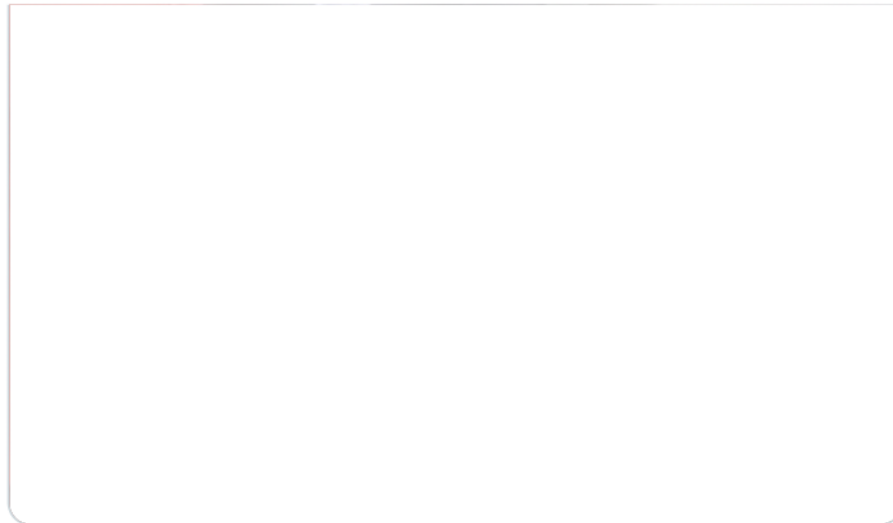
@TheJFKReport · [Follow](#)



This morning I confronted January 6th #343  
Ginger Gun aka "Luke Phillip Robinson."

[Watch on Twitter](#)





12:30 PM · Jan 14, 2022 from Phoenix, AZ



[Read the full conversation on Twitter](#)

2.2K Reply Share

[Read 197 replies](#)

## Video 2:

**TheJFKReport** · Jan 14, 2022

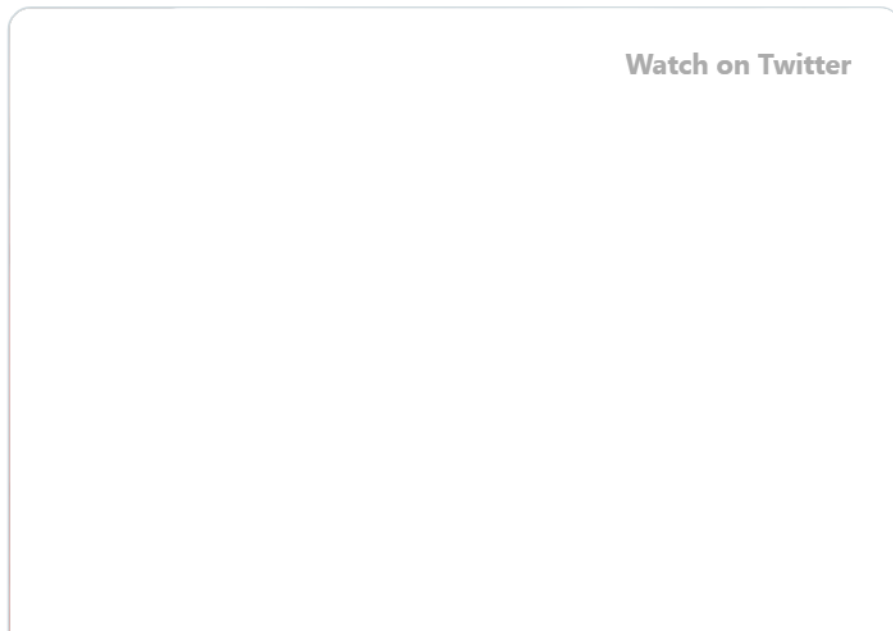


@TheJFKReport · [Follow](#)

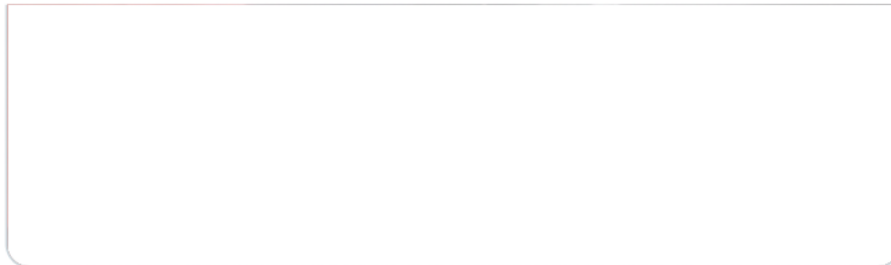
Replying to @TheJFKReport

This morning I confronted January 6th #343 Ginger Gun aka "Luke Phillip Robinson."

[Watch on Twitter](#)



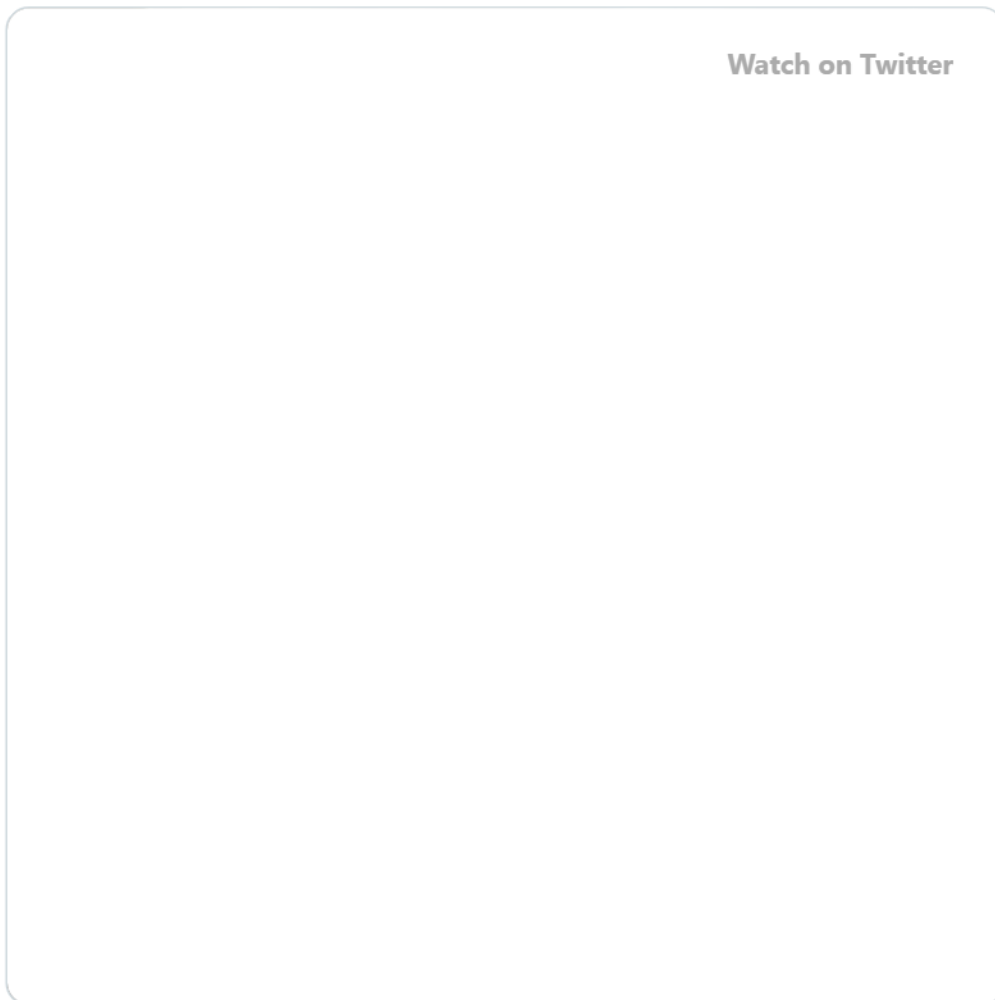




**TheJFKReport**

@TheJFKReport · [Follow](#)

For those of you wondering how Luke Robinson and I are connected. The intro didn't load. Here's the intro.



3:01 PM · Jan 14, 2022 from Arizona, USA



439 Reply Share

[Read 30 replies](#)

This infuriated the US government and the Biden DOJ.

## The DOJ wanted Micajah to spend 60 days in prison for walking into the US Capitol on January 6.

In March he got 90 days in a halfway house, hundreds in fines, and probation.

**We continue to investigate the curious case of Luke Robinson.**

**Why would the FBI release and erase the ONLY Trump supporter that day seen carrying a gun at the DC rally?**

**Who was he working for?**

[Submit a Correction](#)



**Jim Hoft**

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Jim Hoft is the founder and editor of The Gateway Pundit, one of the top conservative news outlets in America. Jim was awarded the Reed Irvine Accuracy in Media Award in 2013 and is the proud recipient of the Breitbart Award for Excellence in Online Journalism from the Americans for Prosperity Foundation in May 2016.

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