

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

UNITED STATES

v.

MATTHEW RYAN MILLER,

Defendant.

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Crim. No. 21-MJ-00145(ZMF)

**DEFENDANT’S MOTION FOR MODIFICATION
OF PRETRIAL DETENTION ORDER AND
MEMORANDUM OF POINTS AND AUTHORITIES**

Defendant Matthew Ryan Miller (“Miller”), by and through undersigned counsel, hereby moves this Honorable Court, pursuant to the Federal Rules of Criminal Procedure and 18 U.S.C. § 3145(b), to vacate the pretrial detention order issued on January 25, 2021, by Magistrate Judge Zia M. Faruqi and to release Mr. Miller under the supervision of the Pretrial Services Agency. As grounds for this motion Mr. Miller states as follows:

BACKGROUND

Matthew Ryan Miller is twenty-two years old and has no criminal record. Mr. Miller has lived in the same home in Howard County, Maryland with his mother for the past 19 years. While living with his mother, he assists in caring for his elderly grandmother and contributes financially for household expenses. Mr. Miller graduated from Glenelg High School and completed 2 years of study at Howard Country Community College. He worked for two years at Glenelg Construction before being let go due to his conduct at issue here. He immediately sought other employment and has been offered a position in sales with a financial advisory company. That offer is still outstanding.

On January 6, 2021, Mr. Miller attended a rally in Washington, DC where many speakers, including the then-President of the United States, Donald J. Trump, exhorted attendees to march to the Capitol to protest the certification of the vote count of the Electoral College for the 2020 Presidential Election. Mr. Miller marched to the Capitol to exercise his First Amendment right and protest. He did not have any intention to disrupt the Congressional proceedings nor to cause any damage to the Capitol grounds or building.

Once at the Capitol, Mr. Miller found himself surrounded by hundreds, if not thousands, of other protesters who eventually began to try to force entry into the Capital building. The government alleges that Mr. Miller entered and remained upon restricted grounds and that he discharged a fire extinguisher “upon the steps leading to an entrance of the U.S. Capitol building.” *See* Statement of Facts at 2. There is no allegation that Mr. Miller entered the Capitol building or otherwise injured or assaulted anyone.¹

ARGUMENT

It is a well-established principle that, “[i]n our society, liberty is the norm and detention prior to trial or without trial is the carefully limited exception.” *See United States v. Simpkins*, Magistrate Case No. 19-00295 (GMH/RMM), 2019 WL 6525787, at * 1 (D.D.C. Dec. 3, 2019) (Meriweather, J.) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)). The “Bail Reform Act of 1984, 18 U.S.C. § 3141, *et seq.*, sets forth the circumstances that trigger that exception.” *Id.* “Specifically, provisions of the Bail Reform Act authorize a judicial officer to

¹ Compare this case with *United States v. Riley Williams*, 21-MJ-0099 (RMM), where Magistrate Faruqi continued Williams on release to third-party custody. In that case, Williams is alleged to have entered the Capitol building and stolen an electronic device from the office of House Speaker Nancy Pelosi with the intention of selling to Russian intelligence services. She is also alleged to have directed the movement of other protestors once inside the Capitol and to have fled once she was identified as having participated in the protests. *See* Exh. 1. Williams is charged with the same offenses as Mr. Miller.

order the detention of a defendant before trial if the judicial officer determines after a hearing that ‘no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community.’” *Id.* (quoting 18 U.S.C. § 3142(e)).

Courts have held that “[a] finding that a defendant poses a danger to the community, or that there is a serious risk the defendant will flee, provides an adequate basis to order pretrial detention.” *See id.* (citing *Salerno*, 481 U.S. at 755; *United States v. Lee*, 195 F. Supp. 3d 120, 124 (D.D.C. 2016); *United States v. Henry*, 935 F. Supp. 24, 25 (D.D.C. 1996)). Detention decisions based upon “‘the defendant’s dangerousness to the community must be supported by ‘clear and convincing evidence,’” and detention decisions based upon “a finding that no set of conditions will reasonably assure the defendant’s appearance in court” must be supported by a preponderance of the evidence. *See id.* (citing 18 U.S.C. § 3142(f); *United States v. Smith*, 79 F.3d 1208, 1209 (D.C. Cir. 1996); *United States v. Simpkins*, 826 F.2d 94, 96 (D.C. Cir. 1987); *United States v. Xulam*, 84 F.3d 441, 442 (D.C. Cir. 1996); *United States v. Anderson*, 382 F. Supp. 2d 13, 14 (D.D.C. 2005)).

This Court has employed the following framework in rendering detention decisions under the Bail Reform Act:

The Bail Reform Act directs judges to consider four factors in determining whether any conditions of release will reasonably assure a defendant’s future presence in court or assure the safety of any other person and the community: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the defendant’s history and characteristics; and (4) the nature and seriousness of the danger to any person or to the community posed by the defendant’s release.

See id. (citing 18 U.S.C. § 3142(g); *Xulam*, 84 F.3d at 442).

An analysis of the factors set forth in 18 U.S.C. § 3142(g) weighs heavily in favor of Mr. Miller's pretrial release, with certain conditions as set forth below.

Nature and Circumstances of the Charged Offense

The government has charged Mr. Miller via a Criminal Complaint with Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority, with a Dangerous Weapon, in violation of 18 U.S.C. §§ 1752(a)(1) and (b)(1)(A); Knowingly Engaged in Disorderly or Disruptive Conduct in any Restricted Building or Grounds, with a Dangerous Weapon, in violation of 18 U.S.C. §§ 1752(a)(2) and (b)(1)(A); Injuring Erection or Architectural Feature in the Capitol Grounds, in violation of 40 U.S.C. § 5104(d); and Violent Entry and Disorderly Conduct on Capitol Grounds, in violation of 18 U.S.C. §§ 5104(e)(2)(D), and (e)(2)(F). In effect, he has been charged with offenses against property – the United States Capitol and its grounds. Mr. Miller concedes he was on the Capitol grounds to protest along with thousands of other protesters and was merely following the directions of then-President Trump, the country's chief law enforcement officer, and other speakers. Considering the size of the crowd present, he had no knowledge that the Capital grounds were restricted or that he was not otherwise allowed to be there. Besides the allegation that he discharged a fire extinguisher, there is no evidence that he entered the Capitol or engaged in any acts of violence. This factor weighs in favor of release.

Weight of the Evidence

The evidence in this case consists of various photographs appearing to capture Mr. Miller on the grounds of the Capitol on January 6. Considering that the charges stem from

allegations that he entered and remained on the Capitol grounds and not the Capitol itself and that he is charged with offenses against property, this factor would appear to favor release.

Mr. Miller's History and Characteristics

As noted previously, Mr. Miller has no criminal record and nothing in his background suggests that he has a criminal propensity. He has lived with his mother his entire life, completed high school and two years of college and was gainfully employed until the incident of January 6. Even then, he immediately sought other employment. His conduct that gave rise to the charges in this case are an extreme aberration and began innocently enough when he sought out to protest the results of the 2020 Presidential election. He did not set out to disrupt or otherwise interfere with Congress. He concedes that he participated in the protest at the Capitol but left as soon as he saw that other protesters were engaging in violent and dangerous behavior and were seeking to enter the Capitol itself.

Mr. Miller has extensive ties to the community in Howard County, Maryland, which is less than 45 miles from this Courthouse. Due to those ties and his background, there is no indication that he would be a risk of flight or otherwise not comply with any order from this Court. This factor weighs in favor of release.

Danger to the Community

The alleged conduct is an aberration for Mr. Miller. On January 6, 2021, he set out to exercise his First Amendment right to protest and when he reached the Capitol grounds things got out of hand. There were people with bullhorns rallying the protesters. In a momentary lapse in judgment, a young and impressionable Mr. Miller got caught up in the

moment and acted against his better instincts. Mr. Miller is not a member of any “right-wing fringe group” and has no record of violence or criminality that would indicate that he poses a danger to the community. He has never been in trouble with the law before and did not realize the dire consequences his actions would have. He has already lost a job of two years and is incarcerated pending trial. For a young man like Mr. Miller, who is close to his family and friends, these circumstances have already taught him a very hard lesson. This factor weighs in favor of release.

PROPOSED CONDITIONS OF RELEASE

The Pretrial Services Agency recommended that Mr. Miller:

- a) be placed on general supervision;
- b) report to Pretrial weekly by telephone;
- c) verify his address;
- d) not apply for or possess a passport;
- e) notify Pretrial of any travel within the continental United States and seek Court approval to travel;
- f) stay out of Washington, DC except for Court, meetings with counsel or Pretrial visits;
- g) report to Pretrial any contact with law enforcement;
- h) not possess firearms.

Mr. Miller respectfully submits that these conditions will satisfy the goals of the Bail Reform Act.

WHEREFORE for the foregoing reasons and any others that may appear to the Court, Mr. Miller respectfully requests that he be released pending trial in this matter subject to the conditions set forth above.

Dated: Washington, DC
January 27, 2021

BALAREZO LAW

/s/

By:

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Counsel for Defendant Matthew Miller

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of January 2021, I caused a true and correct copy of the foregoing Defendant's Motion for Modification of Pre-Trial Detention Order and Memorandum of Points and Authorities in Support Thereof to be delivered to the parties in this matter via Electronic Case Filing (ECF).

/s/

A. Eduardo Balarezo

STATEMENT OF FACTS

1. Your affiant, Jonathan Lund is a Special Agent of the Federal Bureau of Investigation (“FBI”) in the Manassas, Virginia, office, in the Cyber Crime Section. Since 2009, I have been involved in interviewing and debriefing witnesses and informants; conducting physical surveillance; tracing and analyzing internet protocol addresses; tracing and analyzing financial transactions; analyzing telephone pen registers; collecting and analyzing evidence; and preparing and executing search warrants. I have received organizational sponsored computer training as well as computer training at the SANS institute. I have also received training in the area of computer security and network administration. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

Background – The U.S. Capitol on January 6, 2021

2. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol.

3. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

6. At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol

Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

7. Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

8. During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

RILEY JUNE WILLIAMS

9. In the days following the January 6, 2021, events, a witness (“W1”) made several phone calls into the FBI’s telephone tip line related to the U.S. Capitol attacks. I have reviewed documentation of several of those calls. In them, the caller stated that he/she was the former romantic partner of RILEY JUNE WILLIAMS (“WILLIAMS”), that he/she saw WILLIAMS depicted in video footage taken on January 6, 2021, from inside the U.S. Capitol Building. W1 stated that WILLIAMS can be seen directing crowds inside the U.S. Capitol Building up a staircase. The caller specified the uniform resource locator (“url”) for a YouTube video that he/she was describing as url: <https://youtube.com/watch?v=jJiSmVkty4&feature=youtu.be>. W1 also claimed to have spoken to friends of WILLIAMS, who showed W1 a video of WILLIAMS taking a laptop computer or hard drive from Speaker Pelosi’s office. W1 stated that WILLIAMS intended to send the computer device to a friend in Russia, who then planned to sell the device to SVR, Russia’s foreign intelligence service. According to W1, the transfer of the computer device to Russia fell through for unknown reasons and WILLIAMS still has the computer device or destroyed it. This matter remains under investigation.

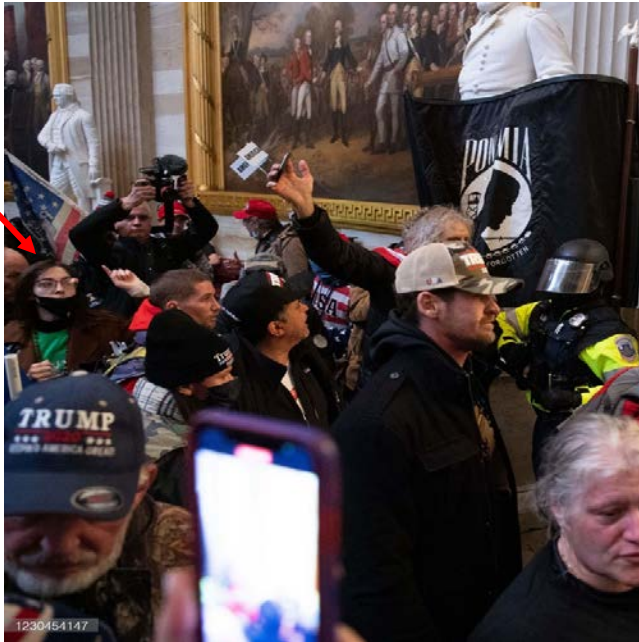
10. I have reviewed a publicly available video that was posted on YouTube located at the url <https://youtube.com/watch?v=jJiSmVkty4&feature=youtu.be>. It is a 32-minute long video, with audio, and consists of a video report called “Storming the Capitol: The Inside Story,” from ITV News, a British television network. I believe that this video report was both posted on YouTube and published in other media formats. At or about 20 minutes and 40 seconds into the video, there appears at the bottom of a staircase the subject, believed to be WILLIAMS, a Caucasian female wearing a green t-shirt and brown trench coat and carrying a black-and-white

striped zebra-print bag over her shoulders. She has brown shoulder length hair and wears eyeglasses. She is wearing a black face mask below her chin, around her neck. She can be heard in the video repeatedly yelling, “Upstairs, upstairs, upstairs,” and can be seen physically directing other intruders to proceed up a staircase. The video also shows a stream of intruders walking up a nearby staircase. Two sample screenshots of that YouTube video appear below.



11. I have confirmed with U.S. Capitol Police that the staircase depicted in the video does, in fact, lead to Speaker Pelosi’s office. I have also reviewed maps of the interior areas of the U.S. Capitol and confirmed the subject appears to have been in an area near “the crypt,” sometimes referred to as the “Small House Rotunda.” In the audio of the ITV News video, the reporter states that the recording took place near the U.S. Capitol Building area called “the crypt.” In the background of the top screenshot above, a bust of Winston Churchill is visible behind the subject, which is also consistent with the location in the “Small House Rotunda.” The maps confirm that there is a nearby staircase, which leads to the office of the Speaker of the United States House of Representatives, Nancy Pelosi.

12. I have reviewed other images the FBI obtained that were taken during the January 6, 2021, civil unrest inside the U.S. Capitol Building. Set forth below is a photograph that also depicts the WILLIAMS inside the U.S. Capitol Building, pointing and directing intruders. She is wearing the same green t-shirt and brown trench coat. I believe that the photograph below was taken in Statuary Hall, inside the U.S. Capitol Building.



13. I have also reviewed other videos obtained by the FBI that were taken outside the U.S. Capitol on January 6, 2021. WILLIAMS can be seen in one or more of these videos entering the U.S. Capitol. She is wearing the same green t-shirt, brown trench coat, and black-and-white shoulder bag. A screenshot of one of the videos is set forth below.



14. I have identified the WILLIAMS in these screenshots based on a variety of methods. As noted above, W1 called the FBI tip line and confirmed that WILLIAMS is depicted in the video described above. I have also reviewed the Pennsylvania driver's license photograph for WILLIAMS, set forth below, and compared it to the photographs and videos described above. I believe they depict the same person.



15. In addition, I have spoken with local law enforcement agents in Harrisburg about their recent interactions with WILLIAMS' parents. According to those officers, on January 11, 2021, local law enforcement received a suspicious persons report filed by WILLIAMS' mother. Officers arrived at the address that WILLIAMS shares with her mother and interviewed her mother. WILLIAMS was not present. According to WILLIAMS' mother, the suspicious person was assumed to be W1. WILLIAMS' mother, with officers present, used her cell phone to place a video-enabled phone call to WILLIAMS. Officers observed WILLIAMS on her mother's cell phone screen and noted that WILLIAMS was wearing a brown-colored jacket, consistent with the screenshots above.

16. According to the Harrisburg officers, on January 16, 2021, they again spoke with WILLIAMS' mother who told them that a British media crew had come to her home the night before, asking to speak with WILLIAMS, who was not present. The news crew presented WILLIAMS' mother with one or more images taken at the U.S. Capitol on January 6, 2021. Her mother acknowledged that it was WILLIAMS in the image.

17. According to the Harrisburg officers, on or about January 16, 2021, officers called WILLIAMS' father who resides in Camp Hill, PA. He stated that he drove to Washington, D.C., with WILLIAMS for the protests on January 6, 2021. He stated that his daughter and he did not stay together throughout the day and that WILLIAMS was meeting up with other individuals she knew at the protests. WILLIAMS later met up with her father outside of the U.S. Capitol Building, and they returned home to Harrisburg together.

18. On or about January 16, 2021, ITV posted a second related video to YouTube, titled "Revealed: ITV News identifies protester who stormed the Capitol," found at <https://www.youtube.com/watch?v=cfzJs4MfTe0>. In this 2 ½ minute video, the reporter identifies "Riley Williams" as the person depicted in snippets of the prior ITV video described above. The reporter then interviewed a woman who identified herself as WILLIAMS' mother and showed her some type of video footage. WILLIAMS' mother then stated that she recognized her daughter inside the U.S. Capitol Building and that her daughter had taken a sudden interest in President Trump's politics and "far right message boards." She claimed that WILLIAMS

“took off,” “is gone,” and is waiting for law enforcement to come to WILLIAMS and ask her about her activities in the Capitol .

19. It appears that WILLIAMS has fled. According to local law enforcement officers in Harrisburg, WILLIAMS’ mother stated that that WILLIAMS packed a bag and left her home and told her mother she would be gone for a couple of weeks. WILLIAMS did not provide her mother any information about her intended destination. Sometime after January 6, 2021, WILLIAMS changed her telephone number and deleted what I believe were her social media accounts on Facebook, Instagram, Twitter, Reddit, Telegram, and Parler.

20. Based on the foregoing, your affiant submits that there is probable cause to believe that RILEY JUNE WILLIAMS violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

21. Your affiant submits that there is also probable cause to believe that RILEY JUNE WILLIAMS violated 40 U.S.C. § 5104(e)(2)(D) and 5104(e)(2)(G) which make it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress . . . and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Jonathan Lund
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 17th day of January 2021.

Robin M.

Meriweather

Robin M. Meriweather
U.S. MAGISTRATE JUDGE

Digitally signed by Robin
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