

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 21-CR-278-2 (BAH)
	:	
DANIEL HERENDEEN,	:	
	:	
Defendant.	:	

RESPONSE TO MINUTE ORDER REGARDING VIDEO EXHIBIT RELEASE

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby responds to the Court’s March 23, and March 26, 2022 Minute Orders, regarding the video evidence that the Court should consider in determining the appropriate sentence in this matter.

As the Court is aware, Daniel Herendeen was charged as a co-defendant of Robert Schornak in Criminal No. 21-278. The government filed a Notice regarding the videos that supported the factual statements made in the Statement of Offense for Schornak at ECF 50 - Response to Minute Order Regarding Video Exhibit Release. Later, for sentencing purposes, the government filed a Notice regarding the videos that supported the government’s sentencing arguments regarding Schornak at ECF 67 - Response to Minute Order Regarding Additional Video Exhibits and Release.

On December 21, 2021, as to Daniel Herendeen, the government filed a Notice regarding the factual statements made in the Statement of Offense for Herendeen at ECF 57 - Response to Minute Order Regarding Video Exhibit Release. In that Notice, the government identified four videos for the Court’s consideration of the government’s evidence that pertained solely to Herendeen. The government also made the four videos available to the Court and to defense counsel via USAfx.

On March 23, 2022, the Court issued a Minute Order, directing the government to file a supplemental report identifying any video evidence on which the factual statements in the government's Sentencing Memorandum are based, but only to the extent such videos were not already identified in the government's filing in ECF 57. On March 25, 2022, the government shared one additional video, identified as Herendeen – Exhibit 5 – Cell Phone Video, with the Court and defense counsel via USAfx.

None of the video evidence noticed in ECF 50 and 67, which were provided to the Court, are associated with or relevant as to Herendeen. While Schornak and Herendeen traveled to and from Michigan to Washington, D.C. together, they separated from one another on the grounds of the Capitol Building and did not reunite until an unknown time and place after they each exited from the Capitol Building.

Below is a complete list of the video evidence that has been made available for the Court's review as to Daniel Herendeen. The government submits that the videos submitted to this Court can be released to the public in accordance with the procedure outlined by this Court. *See* Standing Order 21-28 (BAH), at 5-6.

Video Evidence Associated with Herendeen's Sentencing

1. Exhibit 1: Senate Wing Door video; relevant clip 1:46 – 2:05 showing Herendeen's entry into the U.S. Capitol Building;
2. Exhibit 2: Senate Wing Door video; relevant clip 0:00 – 1:30 showing Herendeen's exit from the U.S. Capitol Building; and,
3. Exhibit 3: Crypt North video; relevant clip 2:30 – 3:10 showing Herendeen inside the Crypt of the U.S. Capitol Building;

CERTIFICATE OF SERVICE

On this 26th day of March 2022, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ Anita Eve
Anita Eve
Assistant United States Attorney