

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

ROBERT MORSS,

Defendant.

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Criminal No. 21-CR-40

**GOVERNMENT'S SECOND
SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF PRE-TRIAL DETENTION**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this supplemental memorandum in support of its oral motion that the Defendant, Robert Morss, be detained pending trial pursuant to 18 U.S.C. § 3142(f)(1)(A) [Crime of Violence] and 18 U.S.C. 3142(f)(2)(A) [Serious Risk of Flight].¹

Per the Court's request, the government is providing this supplemental filing laying out the text messages identified recently and referred to in today's detention hearing. A redacted copy of the text messages referenced or read aloud at the hearing is appended to this filing as Exhibit A. (Per the Court's request, an unredacted copy of the same has also been provided to chambers via email. In addition, as noted by the government at the hearing, a copy of all the currently identified relevant

¹ As noted in the hearing, given the texts identified discussing fleeing the country, the government is also now pursuing detention on this basis. *See, e.g., United States v. Anderson*, 382 F. Supp. 2d 13, 14 (D.D.C. 2005) ("the BRA provides for pretrial detention if the government establishes by a preponderance of the evidence that the defendant is likely to flee before trial if released and that no condition or combination of conditions will reasonably assure the appearance of the defendant as required").

texts has been sent to defense counsel.) These texts were provided in response to a search warrant and according to available information from the provider only include some of the SMS texts sent or received by the phone number (xxx) xxx-4397 (hereinafter “Defendant’s Number”) from January 3, 2021 to February 3, 2021. Given that the formatting of the messages makes the, difficult to read, the government has also included a summary below.²

Conversation with Person 1 (highlighted in yellow in Exhibit A):

January 4, 2021³:

- *From Defendant’s Number:* Dude I can’t believe it!!!
- *From Defendant’s Number:* I’m going to be a part of one of the largest protest/ marches in recent history!!!
- *From Defendant’s Number:* The California caravan gets into DC today!! The whole nation is converging on DC! This is WILD!!!!
- *From Defendant’s Number:* I hope nothing too crazy happens.
- *From Person 1:* Could be historic! Idk much about Catholism but I heard this Wednesday is The Feast of the Epiphany!

January 5, 2021:

- *From Defendant’s Number:* There are so many people going to DC it’s off the chain!
- *From Defendant’s Number:* I’m getting completely suited up for it.
- *From Person 1:* I’m hearing at least 1 0 000?!!! Take pics!!

January 6, 2021:

- *From Defendant’s Number:* It’s going down!!!

² Specifically, to make it easier to read, in this summary the government has: (1) replaced the text “'” with apostrophes and the text “"” with quote symbols, which appears to be what those symbols mean in the text report based on context; (2) specified if the text was sent from or to the Defendant’s Number; (3) taken out the words “REST-SMS-MO” and “ REST-SMS-AO” which appear to automatically appear at the end of the message in each row; (4) removed “[#@#PH001#@#]” which appears to separate a long text into two texts and removed duplicate lines; and (5) grouped conversations between the same two numbers.

³ The undersigned has not yet been able to confirm whether the time stamps are in Eastern Standard Time or Greenwich Mean Time. This summary assumes that they are in Eastern Standard Time.

January 7, 2021:

- *From Defendant's Number:* I'm good to go.
- *From Defendant's Number:* I'll tell you about it more in person
- *From Person 1:* O.k glad you're well! Take care my man.
- *From Defendant's Number:* No bars no scratches.
- *From Defendant's Number:* But shit went down
- *From Defendant's Number:* Can't talk about it over the phone
- *From Person 1:* Roger that big brother is watching and listening ????????????????????

Conversation with Person 2 (Highlighted in Green Exhibit A):

January 4, 2021:

- *From Defendant's Number:* REDACTED ordered his walkietalkies already!
- *From Person 2:* Fuck!!! I suck
- *From Defendant's Number:* It's all good man! Just bring food water and medical shit and we'll be fine! And be prepared to stand for long periods of time.
- *From Person 2:* Honestly we shouldn't allow ourselves into a situation in which they are needed
- *From Defendant's Number:* That can happen to anyone at any time my man!
- *From Person 2:* Vigilance
- *From Defendant's Number:* And boldness

Conversation with Person 3 (Highlighted in Orange in Exhibit A):

January 4, 2021:

- *From Person 3:* Yes sir!!!
- *From Person 3:* [no text]
- *From Defendant's Number:* Fuck ya!! You'll definitely be ready!!!!
- *From Defendant's Number:* I'll have my plate carrier on as well.
- *From Person 3:* Sweet!!! ????????????????????

- *From Defendant's Number:* I'm ready for anything and everything brotha
- *From Person 3:* Exactly!

January 5, 2021:

- *From Defendant's Number:* I think were in for a wild day man
- *From Person 3:* Yes sir!

January 6, 2021:

- *From Person 3:* Ok i am with a bunch of friends my sister. We are all ready for business!??????????? i should be at the ellipse around 8 am
- *From Defendant's Number:* Ok I think I'll be there around then too! Let's try to link up
- *From Person 3:* Yes ill hit you up when i am there

Conversation with Person 4 (Highlighted in pink in Exhibit A):

January 4, 2021:

- *From Person 2:* Are we staying at a hotel or at a buddie's house?
- *From Defendant's Number:* Do you have walkie talkies?
- *From Person 2:* I ordered them. There suppose to come today
- *From Defendant's Number:* I gotcha. Mine is supposed to come tomorrow
- *From Person 2:* They came.

January 5, 2021:

- *From Defendant's Number:* Good deal!! We can figure them out on the way down!

January 9, 2021:

- *From Defendant's Number:* Hey I don't know if I already told you about this but I'm not telling anyone who wasn't there anything about the 6th. REDACTED isn't going to hear about it for a long time. Just wanted to put that out there so the beans weren't accidentally spilled.
- *From Person 2:* Ok
- *From Defendant's Number:* I appreciate it my man. Just don't want any one who doesn't understand to be included just yet
- *From Person 2:* I Completely understand.

January 21, 2021:

- *From Person 2:* Did you send me a response? My phone receive a message but then immediately it disappeared
- *From Defendant's Number:* [no text]
- *From Person 2:* Weird.
- *From Person 2:* Being spied on lol.

January 22, 2021:

- *From Defendant's Number:* Dude maybe.. at this rate nothing would surprise me
- *From Person 2:* ?????
- *From Defendant's Number:* I'm just hoping I don't get fucking arrested.
- *From Defendant's Number:* Did you hear about that weirdo that was trying to link up with us? REDACTED's friend? The one that REDACTED was talking to on the phone got tracked down in NYC and the FBI arrested him.
- *From Defendant's Number:* There's news articles about it too!
- *From Person 2:* I did not. Shit man. I will pray. I wish I could do more.
- *From Defendant's Number:* Hey it's all good man. I'm praying for him too. I just hope REDACTED and I aren't next. ??
- *From Person 2:* There's a lot of uncertainty but I think it will work out in the end.
- *From Defendant's Number:* This guy also bragged about taking over the capital and murdering a bunch of pedophiles and satanic people in the capital on social media. He has a ton of photos of him with a bunch of guns with trump stuff in the background on social media AND has a YouTube channel for picking up chicks... So he kinda fits the Bill of someone who might be a little crazy.
- *From Person 2:* Sounds like it.
- *From Defendant's Number:* We have nothing in common with that guy ????
- *From Person 2:* You both should be safe.
- *From Defendant's Number:* That's what I'm hoping. We're much smaller fish.
- *From Defendant's Number:* I'll send you the articles of that guy who got arrested
- *From Defendant's Number:* <https://gothamist.com/news/upper-east-side-pickup-artist-arrested-alleged-role-capitol-insurrection>
- *From Defendant's Number:* <https://nypost.com/2021/01/20/fbi-agents-swarm-heavily-armed-nyc-man-from-capitol-riot/>

January 24, 2021:

- *From Defendant's Number:* Hey bro can you pray for me please?
- *From Person 2:* Absolutely. Anything pacific?

- *From Defendant's Number:* I'm freaking out dude. I think it's only a matter of time before "ramifications"; of the 6th come down on me. I've been watching and reading Shit all night. People from centre county PA Pittsburgh Philly have already been hunted down and arrested..
- *From Person 2:* Got it brother.
- *From Person 2:* Praying right now.
- *From Defendant's Number:* Thanks brotha. I feel ice cold inside. I want to make a positive difference in life and show affection and belief to these kids who I will inevitably teach some day and I'm begging God that I am still able to do that with my life. If not I'm completely screwed.
- *From Defendant's Number:* I feel like I need to throw up and fall asleep at the same time.
- *From Person 2:* Try to relax. Nothing is lost yet.
- *From Defendant's Number:*
<https://www.google.com/amp/s/amp.cnn.com/cnn/2021/01/22/politics/us-capitol-riot-investigation/index.html>
- *From Defendant's Number:* I'm trying to I feel like I'm going to get squashed like a bug on Monday.
- *From Person 2:* I'll be praying. I think this is about to get side lined with bigger events. We shall see. Hang in there. Let me know if I can do anything else for you. I might be getting off orders on the 26th. If you want I can swing by if you need to talk or something.
- *From Defendant's Number:* Thank you brotha. I'll try to calm down. This is pretty wild and a selfish part of me hopes that something big takes place. I appreciate your support and I'll admit I am terrified but I am begging for Gods forgiveness and mercy.
- *From Defendant's Number:* I'm pretty shook up right now hahaha not gonna lie.
- *From Defendant's Number:* Please pray for me. I'm wiggling out
- *From Defendant's Number:* I'm considering leaving the country
- *From Defendant's Number:* They are crushing everyone.

January 25, 2021:

- *From Person 2:* How are you doing today?
- *From Defendant's Number:* I'm stressing my ass off. But I'm trying to stay calm and pray like a maniac. I'm begging for mercy and for this to pass over me.
- *From Person 2:* I'm sorry dude. Been praying for you. Maybe you should take a little vacation somewhere?
- *From Defendant's Number:* I don't want to fly and pop hot on any radars but I'm thinking I need to drive somewhere and get out of town.

- *From Defendant's Number:* Thank you for praying for me man.
- *From Defendant's Number:* It means a lot
- *From Person 2:* You're welcome.
- *From Defendant's Number:* Each passing day helps me feel a little better I know I am a small fish in comparison to the people who ransacked the capital or were plotting to do so online but if this comes back in my direction I'll be finished.
- *From Person 2:* I guess and they call us conspiracy theoriest??
- *From Defendant's Number:* I'm just hoping they aren't calling me a fugitive anytime soon??
- *From Person 2:* Lol. They will have a shit ton of those soon.
- *From Defendant's Number:* You think so???
- *From Person 2:* I think so. If had to guess possibly in the next two weeks. That's not supported on info I've seen. It's just me guessing.
- *From Defendant's Number:* It's so bad of me but I'm really hoping that something crazy happens to take the spotlight off the latest scenario. If this year is anything like 2020 there should be something insane biweekly

CONCLUSION

WHEREFORE, the United States respectfully requests that the Court grant the government's motion to detain the Defendant pending trial.

Respectfully
submitted,

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By:



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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2021, I sent a copy of the foregoing via the Court's electronic filing system to counsel for the defendant.

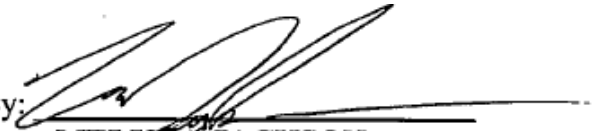
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EXHIBIT A

