

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 THIRD
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 and **Exhibits B- Q¹** 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]. (All red arrows or boxes in the clips have been added by the undersigned to assist review of the materials.)

- **EXHIBIT B – Par. 11** –Exhibit B corresponds to Paragraph 11 of the Government's Detention memorandum and shows the following: A few minutes after the crowd can be seen on BWC footage unsuccessfully trying to violently push through the fence separating the crowd from the Capitol and while officers are repeatedly asking the crowd to back up, MORSS can be seen on BWC footage. Around 2:09 p.m., after being asked to back up,

¹ The government does not object to the public release of video exhibits, including recording, downloading, retransmitting, or further broadcasting of the exhibits.

MORSS grabs the officer's baton and tries to rip it away. (MORSS does not appear to be successful in ripping away the baton.)

- **EXHIBIT C – Par. 13** –Exhibit C corresponds to Paragraph 13 of the Government's Detention memorandum and shows the following: At approximately 2:14 p.m., MORSS comes up behind those at the front line of the crowd facing law enforcement and stands there for about a minute. MORSS then seems to speak to the person to his right (who appears to be one of the same individuals he was photographed with near the National Monument earlier) and then to the person on his left. The person to his left can be seen nodding as if in response. A few seconds later, MORSS reaches through the crowd and grabs the fence being held by the MPD officer and being used to keep the crowd back. As seen on the video, MORSS then rips the fence out of the hands of the officer, with the assistance of the other rioters, including the one that appeared to nod in response to something MORSS said right before grabbing the fence. MORSS then retreats back into the crowd with the fence.
- **EXHIBIT D- Par. 14** Exhibit D corresponds to Paragraph 14 of the Government's Detention memorandum and shows the following: At approximately 2:26 p.m., MORSS, while wearing a neck gaiter covering his mouth, appeared to address the officers and can be heard saying, "You guys are betraying us. You get paid enough to betray your people?" MORSS then points and says, "look they are coming in over there."
- **EXHIBIT E- Par. 15-** Exhibit E corresponds to Paragraph 15 of the Government's Detention memorandum and shows the following: Around 2:30 p.m., after the crowd again surged forward and pushed the officers further back and moments after an officer

walks by leading away an injured officer, MORSS can be seen on BWC footage at the front of the rioters. MORSS can be heard telling the officers: “take a look around, back up, we are going to take our Capitol back.”

- **EXHIBIT F- Par 16-17** Exhibit F corresponds to Paragraphs 16 to 17 of the Government’s Detention memorandum and shows the following: Around 2:33 p.m., as the crowd of rioters continued to advance and law enforcement began to retreat, MORSS and two unidentified individuals struggled over a black flag pole with an MPD officer. Around 15 seconds later, a helmet visor was thrown at an MPD officer presumably from someone in the crowd, the MPD officer attempted to pick up the visor off the ground. MORSS grabbed the visor as well and attempted to pull it out of the MPD officer’s hands. The MPD Officer was able to pull away with the visor. At that point, MORSS lunged forward and grabbed the visor again; MORSS and unidentified individuals then tried to rip the visor out of the officer’s hand. The MPD officer then regained control of the visor.
- **EXHIBIT G- Par 18-** Exhibit G corresponds to Paragraph 18 of the Government’s Detention memorandum and shows the following: As the rioters continued to move forward, yelling at officers to retreat, around 2:35 p.m., MORSS can be seen near the front lines of the rioters surrounding the officers, motioning at the officers to retreat while holding a yellow flag.

- **EXHIBIT H- Par 21-22-** Exhibit H corresponds to Paragraphs 21-22 of the Government's Detention memorandum and shows the following: At approximately, 2:57 p.m., MORSS is visible at the entrance of the tunnel, where he stays for the next few minutes. MORSS can be seen in this surveillance footage with both the same yellow flag and goggles that he is pictured with in the BWC footage described above. MORSS hung back by the entrance to the tunnel for a few minutes. Then around 3:02 p.m., he pushed his way forward towards the line of officers guarding the Lower West Terrace doors to the Capitol.
- **EXHIBIT I- Par 23-25-** Exhibit I corresponds to Paragraphs 23-25 of the Government's Detention memorandum and shows the following: MORSS joined the rioters directly confronting the officers guarding the Lower West Terrace doors. MORSS then grabbed an MPD Officer's shield. MORSS then continued pushing and pulling against law enforcement shields and the officers holding those shields for the next few minutes. (NOTE: At 1 minute and 40 seconds into Exhibit I, MORSS can be seen using the shield to directly press up against the officers, as described by the government in the detention hearing.) MORSS, with the assistance of other rioters then began to rip the USCP riot shield away from an MPD officer, while he (or someone near him) yelled "send the shield back, send the shield back!" Together, MORSS and the rioters assisting him successfully ripped the USCP riot shield from the MPD officer.

- **EXHIBIT J- Par 25-26-** Exhibit J corresponds to Paragraphs 25-26 of the Government's Detention memorandum and shows the following: Then, around 3:05 p.m. as seen in USCP surveillance footage, MORSS carried the shield away. MORSS then passed the shield back to the rioters behind him, who passed it back into the crowd. At approximately 3:06 p.m., MORSS then walked out of the tunnel and into the crowd near the arch entrance to the tunnel.
- **EXHIBIT K- Par 26-27-** Exhibit K corresponds to Paragraphs 26-27 of the Government's Detention memorandum and shows the following: Upon exiting the tunnel, MORSS was seen on the steps that lead to the tunnel. He started to speak with other rioters. MORSS yelled into the crowd, "shield wall" and started yelling for people to pass up police riot shields. Shields were then passed from the crowd to MORSS and others by the tunnel's front entrance.
- **EXHIBIT L- Par 27-28-** Exhibit L corresponds to Paragraphs 27-28 of the Government's Detention memorandum and shows the following: The shields were then passed to the rioters at the front of the line confronting the officers guarding the doors with MORSS then quickly returning into to the tunnel to apparently direct the activity. MORSS re-entered the tunnel at approximately 3:07 p.m.
- **EXHIBIT M- Par 28-30-** Exhibit M corresponds to Paragraphs 28-30 of the Government's Detention memorandum and shows the following: MORSS entered the

tunnel and started to instruct rioters who had shields in their possession to organize a shield wall. MORSS yelled out: “Hey, everyone with a shield, back up and organize! Make a shield wall! Organize right now and make a shield wall. Where are those fucking shields!” MORSS then walked toward the front of the tunnel bracing both arms on the back of the person directly in front of him and began pushing forward on the rioter directly in front of him. MORSS then pushed with the crowd together as they pushed in unison attempting to break past the officers guarding the Lower West Terrace doors. Around 3:08 p.m., MORSS then instructed an individual to the side of the tunnel with a flag to “block out” or “take out” the camera, while pointing to the USCP camera affixed above the doors in the tunnel. The individual he was speaking to then began to repeatedly knock out or block the camera with the tip of the flag pole. (This camera was part of the USCP security footage.)

- **EXHIBIT N- Par 31 – Par 33-** Exhibit N (from the beginning until 1 minute and 21 seconds in) corresponds to Paragraph 31 of the Government’s Detention memorandum and shows the following: Around 3:10 p.m. as shown on surveillance video, MORSS, who now held a shield moved away from the front line of rioters and towards the arch. He stayed in the tunnel, holding the shield. MORSS then passed the shield off to another rioter and once again began pushing with the group in an attempt to break through the officers guarding the doors.
- **EXHIBIT O- Par 32** - Exhibit O corresponds to Paragraph 32 of the Government’s Detention memorandum and shows the following: As others are violently pushing up

against officers guarding the doors, MORSS then continued to use his entire body to push against the rioters in front of him as the group tried to push past the officers guarding the door. The group of rioters all yelled “heave ho” as they pushed in unison against the officers guarding the doors. It was during this time that an MPD officer was being violently crushed against the first set of doors with a shield held by co-defendant McCaughey.

- **EXHIBIT N- Par 31 – Par 33**- Exhibit N (from 1 minute and 21 seconds - 2 minutes) also corresponds to Paragraph 32 of the Government’s Detention memorandum and shows the same events from a different angle.
- **EXHIBIT N- Par 31 – Par 33**- Exhibit N (from 2 minutes until the end) corresponds to Paragraph 33 of the Government’s Detention memorandum and shows around 3:12 p.m., as MORSS then passed another shield and also passed what appeared to be a riot style baton off to another rioter behind him. Around 3:14 p.m., MORSS eventually walked out of the tunnel and back into the crowd.
- **EXHIBIT P- Par 35** - Exhibit P corresponds to Paragraph 35 of the Government’s Detention memorandum and shows the following: MORSS and other rioters climbed through a broken window into the Capitol. Based on a comparison to surveillance footage showing some of the same events, this occurred around 4:17 p.m and MORSS is later

visible in the same room until around what appears to be 4:30 p.m., as shown in photographs in the detention memorandum.

- **EXHIBIT Q- Par 36** - Exhibit Q corresponds to Paragraph 36 of the Government's Detention memorandum and shows the following: The furniture inside the room MORSS entered was toppled over and scattered, as well as some pieces appearing to be broken. Someone inside the room can be heard asking for a crowbar and masks, and there are banging sounds. A few of the rioters are captured still breaking and pulling on a section of the remaining glass left in the window. (The video is a short clip and does not capture MORSS doing any breaking inside the room. At this time, it is unknown what, if anything, he did inside the room for the at least 13 minutes or so he was inside.)

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 16, 2021, I sent a copy of the foregoing via the Court's electronic filing system to counsel for the defendant. In addition, the exhibits were provided via USAfX.

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