

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

UNITED STATES OF AMERICA)	
)	
v.)	No. 1:21-cr-28-8 (APM)
)	
KELLY MEGGS,)	
)	
Defendant.)	

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION FOR
RECONSIDERATION OF MOTION TO REMOVE THE
SENSITIVE DESIGNATION OF CERTAIN VIDEO**

Defendants Kelly Meggs and Kenneth Harrelson¹ moved this Court to order the government to remove sensitivity designations of certain videos. ECF 494. But the motion did not identify the videos at issue. Indeed, after Defendant Meggs’ counsel emailed a copy of the motion to us on November 23, 2021, we responded just four-and-a-half hours later, asking him to clarify *which* videos he was seeking to release to the public. We also asked him to explain why he was filing the motion in this case rather in *United States v. Ryan Nichols*, case 21-cr-00117-TFH, in which the videos may be more directly at issue. He never responded. A copy of the correspondence is below:

¹ While the motion itself lists only Kelly Meggs’ name, both the docket and the memorandum in support of the motion indicate that Kenneth Harrelson is a co-movant.

From: Nestler, Jeffrey (USADC)
Sent: Tuesday, November 23, 2021 4:12 PM
To: contact@[REDACTED]; Sher, Justin (NSD); Edwards, Troy (USADC); Hughes, Alexandra (NSD); Manzo, Louis (CRM); Baset, Ahmed (USADC); Jones, Luke (USADC); Keil, Brittany (USADC); Rosborough, Danielle (NSD); kiraannewest@[REDACTED]@[REDACTED]@mcbridelawnyc.com
Cc: Rakoczy, Kathryn (USADC); Brad Geyer
Subject: RE: [EXTERNAL] 21-cr-28-8 (US v. Kelly Meggs) -- Motion for Removal of Designation on 3 hour West Side video in USA v. Ryan Nichols

Mr. Moseley,

First, we removed Mr. Douyon, Judge Mehta's courtroom clerk, from this thread. He does not need to see our communications.

Second, can you please clarify the relief you are seeking? Which video is it? Is it U.S. Capitol Police surveillance video? If so, what is the file name? Or is the video a compilation prepared by Ryan Nichols (or his counsel)? Do you have a copy of the video you can share with us?

Third, can you please explain why you are filing the motion in this case rather than in Mr. Nichols' case before Judge Hogan?

Thank you,
Jeff Nestler

From: contact@[REDACTED]
Sent: Tuesday, November 23, 2021 10:41 AM

To: [REDACTED]

Subject: [EXTERNAL] 21-cr-28-8 (US v. Kelly Meggs) -- Motion for Removal of Designation on 3 hour West Side video in USA v. Ryan Nichols

I assume that the Government will oppose this motion, but please let me know if you would agree to the release of the surveillance video within the 3 hour compilation prepared by Ryan Nichols.

Later in the day on November 23, after Defendants Kelly Meggs and Harrelson filed their motion, ECF 494, the Court issued a minute order denying the motion without prejudice. The Court instructed defense counsel to engage in "good faith" efforts to resolve the dispute before re-filing such a motion.

Rather than contacting us, defense counsel for Defendant Kelly Meggs—this time apparently without moving on behalf of Defendant Harrelson as well—moved for reconsideration of the Court’s November 23, 2021, minute order.

We still do not appreciate which video(s) are subject to the motion. *Cf.* ECF 498 at 1 (seeking permission to “publicly release one or more video(s),” but never identifying the videos). And we still have not heard from defense counsel in a good-faith attempt to reach a resolution without court intervention.

The motion should be denied.

Respectfully submitted,

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DC Bar No. 481052



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