

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

UNITED STATES OF AMERICA

v.

**ZACHARY REHL,
Defendant**

*
*
*
*
*
*

CASE NO: 21-CR-0175-3 (TJK)

MOTION TO TAKE JUDICIAL NOTICE OF CERTAIN FACTS

Zachary Rehl, by his undersigned counsel, pursuant to Fed. Rule of Evid. 201 respectfully moves the Court to take judicial notice that the map, attached as exhibit 1, is the one currently posted on the United States Capitol Police website as the United States Capitol Demonstration Area map.

A. Federal Rule of Evidence 201

Pursuant to FRE 201, the Court may take judicial notice of facts posted on government websites. *Cannon v. D.C.*, 717 F.3d 200, 205 (D.C. Cir. 2013) (“This document, which summarizes the operation of the pension fund for its beneficiaries, is available on the Retirement Board’s website. We take judicial notice of its contents. See Fed.R.Evid. 201.”); *Dastagir v. Blinken*, 557 F. Supp. 3d 160, 163 (D. D.C. 2021)(McFadden, J) (“The Court takes judicial notice of information posted on official government websites.”); *United States v. Saffarinia*, 422 F. Supp. 3d 269, 280 (D. D.C. 2019) (Friedman, J). (“The Court takes judicial notice of the official government documents and other sources from [HUD’s] government website as ‘sources whose accuracy cannot reasonably be questioned.’ ” quoting *Humane Soc’y of United States v. Animal & Plant Health Inspection Serv.*, 386 F. Supp. 3d 34, 40 n.2 (D.D.C. 2019) (quoting Fed. R. Evid. 201(b)(2)).).

B. United States Capitol Demonstration Area map

The website of the United States Capitol Police contains a page titled “Activities Requiring Permits” at <https://www.uscp.gov/visiting-capitol-hill/activities-requiring-permits>. That page contains a link for “U.S. Capitol Grounds Demonstration Area Map” “https://www.uscp.gov/sites/uscapitolpolice.house.gov/files/wysiwyg_uploaded/U.S.%20Capitol%20Grounds%20Demonstration%20Area%20Map.pdf”

The map found at that link is attached as Exhibit 1.

C. Trial Testimony About Demonstration Area Pemits and Maps

On January 13, 2023, during his direct examination of US Capitol Police Inspector Lloyd, the following exchange took place:

BY MR. MULROE:

...

Q. Were you aware on the 6th of whether there were any permitted demonstrations planned?

A. Yes.

Q. Were any of those permitted demonstrations planned for inside the restricted area?

A. No.

Q. Were any of those permitted demonstrations planned for a place that might be mistaken for somewhere inside the restricted area?

A. No.

Tr. 1/13/23 at 3509-10.

During the cross-examination of Secret Service Agent Hawa, the following exchange took place:

BY MS. HERNANDEZ:

Q. Are you familiar with this map, which includes demonstration areas around the Capitol?

A. Yes. I've seen a map like that before. Yes.

Q. And so do you know whether the demonstration-restricted area would include some of the -- I'm sorry -- do you know whether the

January 6th restricted area in [Government] Exhibit 100 includes some of these areas that are referenced as Demonstration Area 8, 9, 10 and 11, for example?

A. I would have to take a look at the maps and refer to --

...

MS. HERNANDEZ: First of all, your Honor, I'd move exhibit -- Rehl Exhibit 11-A into evidence and publish it to the jury.

THE COURT: Any objection?

MS. MOORE: I don't think there's been proper foundation.

MS. HERNANDEZ: She said she recognized the map, your Honor.

MS. MOORE: She said she had seen similar maps.

THE COURT: Well --

BY MS. HERNANDEZ:

Q. The map on your screen, that's U.S. Capitol grounds. That includes the demonstration areas. Is that correct?

A. From when?

Q. It's dated November 2012

A. Okay. I believe you. I'm saying I've seen similar maps to this. But I don't understand what the question is.

Q. Is there anything about -- does this map look like -- appear to you as the map of the Capitol including the demonstration areas?

A. I couldn't speak to that. Demonstration areas can change at any given time.

Q. So you're saying you don't recognize it?

A. This particular map? No. I can't speak to when this was used or how often it's used or who put it together. So I don't understand what the specific question is. I've seen similar maps like this.

...

Q. So does this appear to you to be an accurate depiction of the Capitol grounds and the areas around it?

A. I'd have to study this for a second. But yes. It's very similar. These names are a bit dated. Terrence Gainor is no longer there. Ayers is no longer there. Mr. Irving is no longer there. It is dated. It is 2012, so this is a dated map. So this could have changed.

Tr 1/18/23 pm at 175-178.

WHEREFORE, Mr. Rehl respectfully moves this Honorable Court to take judicial notice of that the U.S. Capitol Grounds Demonstration Area Map is an official government document currently posted on the website of the United States Capitol Police, which meets the requirement of FRE 201,

that it comes from a source “whose accuracy cannot reasonably be questioned.’ And, consequently, the map may be admitted into evidence and Mr. Rehl may be able to use the map during examination of witnesses and publish it to the jury during the instant trial, without need to subpoena a custodian of records for the United States Capitol Police.

Respectfully submitted,

/s/

Carmen D. Hernandez
Bar No. MD03366
7166 Mink Hollow Road
Highland, MD 20777
(240) 472-3391; (301) 854-0076 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served via email on the Court and all counsel of record this 17th day of January, 2023.

/s/ Carmen D. Hernandez

Carmen D. Hernandez