

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

UNITED STATES OF AMERICA

v.

**JOSHUA CHRISTOPHER DOOLIN,
MICHAEL STEVEN PERKINS, and
OLIVIA MICHELE POLLOCK,**

Defendants.

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CASE NO. 21-cr-447 (CJN)

**UNITED STATES’ OPPOSITION TO DEFENDANTS’
MOTION TO PRECLUDE VIDEO AND OTHER EVIDENCE**

Defendants move to preclude the government from introducing video and other evidence related to Jonathan Pollock and Joseph Hutchinson, arguing that such evidence would alternately be irrelevant or prejudicial. ECF No. 180 at 2-3. Essentially, defendants claim, the government may tar the present defendants in this matter with the actions of Mr. Pollock (who remains a fugitive) and Mr. Hutchinson (who has chosen to represent himself, and whose case has been severed). *Id.* at 5 (“Evidence of the conduct of Mr. Perkins and Mr. Doolin in and around the events of January 6, 2021, are not relevant to the prosecution of Mr. Doolin, Mr. Perkins, or Ms. Pollock. Even if the government can articulate a relevant reason to introduce evidence of their conduct, the prejudice to Mr. Doolin, Mr. Perkins, and Ms. Pollock far outweighs any relevance.”).

The government has no intention of tainting the defendants in this trial with the actions of their fugitive or severed co-defendants. But the evidence that implicates the absent defendants is intrinsic evidence of the present defendants’ crimes. The evidence for all the charged defendants in this case is inextricably intertwined and would be difficult to parse out in any coherent fashion. Intrinsic evidence encompasses evidence that is either “of an act that is part of the charged offense” or is of “acts performed contemporaneously with the charged crime . . . if they

facilitate the commission of the charged crime.” *United States v. Bowie*, 232 F.3d 923, 929 (D.C.Cir. 2000). When evidence is intrinsic to the charged crime, it is not evidence of another criminal act. *United States v. Alexander*, 331 F. 3d 116, 124-26 (D.C.Cir. 2003).

For instance, the present and absent defendants all traveled to the Capitol together, and for long stretches on January 6, 2021, trespassed over the restricted perimeter of the Capitol grounds together. As such, many of the photos and videos that may be used to prove the present defendants’ violations also show the absent defendants.



Figure 1 (Michael Perkins circled in dark blue, Joshua Doolin circled in red, Olivia Pollock circled in light blue, and Jonathan Pollock circled in green)

Other videos show more serious crimes. In one, defendant Joshua Doolin braces a flagpole and advances towards a line of police officers before being turned back by what appears to be chemical spray. Defendant Michael Perkins then picks up the flagpole and throws it in the direction

of a line of police officers. Also in the video is Jonathan Pollock, who charges up the steps, holding a shield in front of himself, as he slams into the line of officers. It would be difficult, if not impossible, to show this video of the present defendants—Doolin and Perkins—without also showing Jonathan Pollock.



Figure 2 (Jonathan Pollock circled in green, Michael Perkins circled in blue, and Joshua Doolin circled in red)

Similarly, video of Joshua Doolin’s theft of a police officer’s riot shield, at times, shows Jonathan Pollock:



Figure 3 (Joshua Doolin circled in red, Jonathan Pollock circled in green)

The government has not yet decided which of the videos and photos referenced to present at trial. The point is only to show that the evidence of the present defendants' crimes is intrinsic to and intertwined with evidence of the absent defendants'.

In addition, certain of the defendants photographed or filmed each other while committing offenses on the Capitol grounds. For example, Doolin's cellphone contains a video of Jonathan Pollock, Hutchinson, and Olivia Pollock (and other rioters) assaulting police officers on the West Plaza of the Capitol:

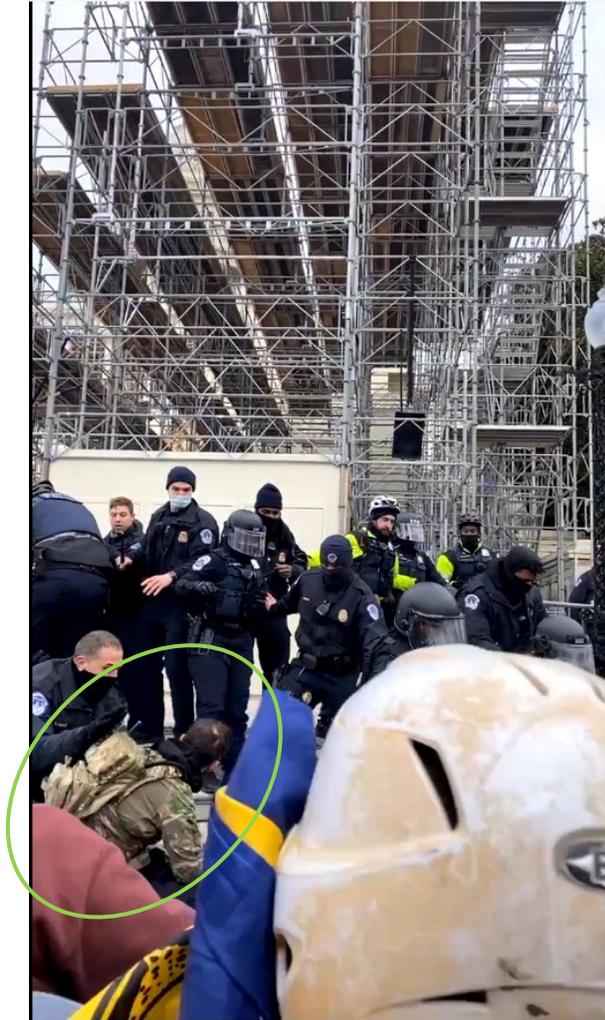


Figure 4 (Jonathan Pollock circled in green)

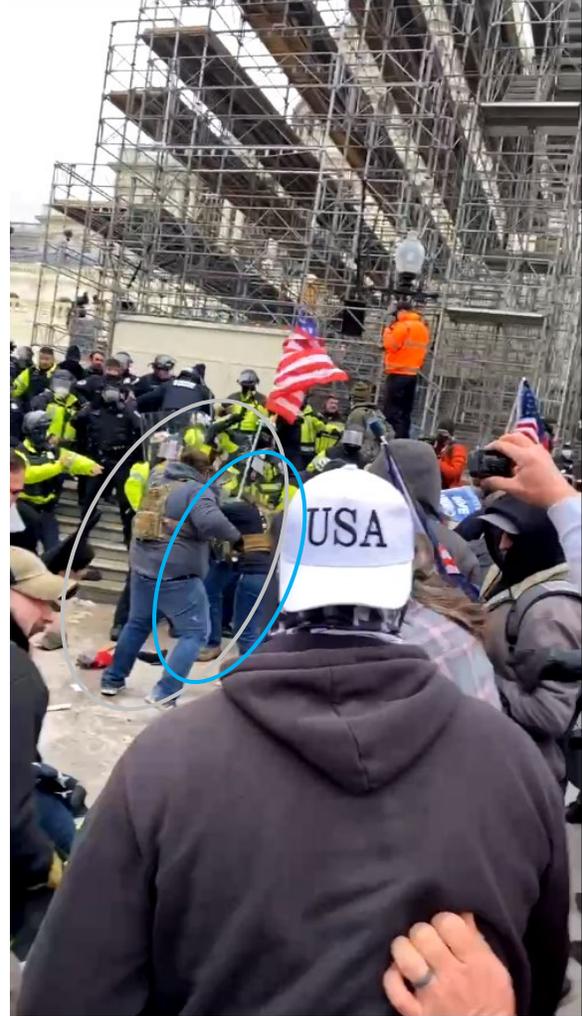


Figure 5 (Joseph Hutchinson circled in gray, Olivia Pollock circled in light blue)

In addition to being evidence of the assaults themselves, these videos are evidence of other crimes with which the defendants are charged. The defendants' observations of their friends and relatives (as well as others) violently clashing with police officers are highly probative evidence of their knowledge that their presence on the Capitol grounds was unauthorized.

A blanket motion to preclude any video or photographs containing Mr. Pollock or Hutchinson would be overbroad and, crucially, premature. The time for the defense to object to specific pieces of evidence they consider irrelevant or prejudicial under Rule 403 is after the

government identifies its exhibit list, not before. For the reasons above, the defendants' motion, ECF No. 180, should be denied.

DATED: February 10, 2023

Respectfully submitted,

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