

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

UNITED STATES OF AMERICA

v.

KENNETH JOSEPH OWEN THOMAS,

Defendant

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Criminal Case No.

1:21-cr-00552 (CRC)

DEFENDANT’S PROFFER AS TO ANTICIPATED WITNESSES

Jonathan David Sumrall

Defendant KENNETH JOSEPH OWEN THOMAS (“Thomas”), through the undersigned counsel, John M. Pierce, Esq. and Roger Roots, Esq., and hereby responds to the verbal Order of the Court to explain the expected testimony of the witnesses that the Defendant expects to call at trial.

Initially, Defendant reserves and notes his objection that this procedure is unduly burdensome for an under-funded Defendant’s legal team, as with most January 6 Defendants, but not shouldered in like manner by the well-funded U.S. Department of Justice with regard to its witnesses. Almost everything about these cases – rushed to court with many years left to run on statutes of limitations, but clearly not ready for prime time – seems geared towards swamping the few attorneys willing to provide a legal defense to these accused citizens.

I. PROFERRED TESTIMONY OF JONATHAN D. SUMRALL

Jonathan D. Sumrall of Dallas, Texas, operates a website and clearinghouse of information STOPHATE.com, which stands for Start Turning Off Prejudice, Heal Attitudes

Through Education. It was started in 1992 in response to the sometimes violent riots in Los Angeles, California after the acquittal of police who beat Rodney King. Since January 6, 2021, the news site has accumulated every bit of information they can find about the events on or related to January 6, 2021, to inform the public. The news site hosts and makes available to the public articles, documentaries, videos and evidence. The particular goal is truth over assumptions, group think, cult programming, and reactionary responses to public events.

Jonathan D. Sumrall will testify as he did in *United States v. Nordean* that he came to Washington, D.C. on or about January 6, 2021, to attend the peaceful and legal rally at the Ellipse area of the national park known as the Washington Mall, near the Washington Monument in the morning of January 6, 2021. And he came and planned to attend the rallies on the U.S. Capitol Grounds for which the U.S. Capitol Police had issued demonstration permits. Mr. Sumrall had helped organize a “Stop the Steal” rally in Texas.

Mr. Sumrall will testify that by about 1:15 PM on January 6, 2021, along the same pathway that Defendant Thomas followed across from the Peace Monument through the misnamed Pedestrian “Gate” (where no gate exists) that there were no legible signs visible to demonstrators approaching the U.S. Capitol. He will testify as he did in *Nordean* that there were more police along Constitution Avenue / Pennsylvania Avenue and the police grew less as he approached the edge of the U.S. Capitol Grounds.

He testified in *Nordean* and introduced two of his own video recording showing that there were the remnants of paper affixed to mobile bike racks that had been pushed very far out of the way, but no meaningful message could be discerned from the scraps of paper remaining. He will testify as he has before that there were five police officers who stood to one side and did not interact with the crowd and Sumrall believed that the police officers were simply watching

and allowed the crowd through. The only fencing he saw was immediately around the construction site for the inauguration platform. As a result, he believed that the paper far away on the fencing said something like “construction site.”

Mr. Sumrall will also testify that he saw no violence on the West side of the Capitol along that path, the mood of the crowd was festive and not angry. Sumrall will testify that the crowd was not following any coherent or cohesive strategy or plan but just moving randomly.

But primarily, Sumrall will testify that he did not hear any announcements telling the crowd that the area was restricted or anything of that nature or orders to disperse.

Dated: May 17, 2023

RESPECTFULLY SUBMITTED
KENNETH JOSEPH OWEN THOMAS,

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that this document is being filed on this May 17, 2023, with the Clerk of the Court by using the U.S. District Court for the District of Columbia’s CM/ECF system, which will send an electronic copy of to the following CM/ECF participants. From my review of the PACER account for this case the following attorneys are enrolled to receive notice and a copy through the ECF system.

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