

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

UNITED STATES OF AMERICA	:	
	:	CASE NO. 1:21-cr-00552 (DLF)
v.	:	
	:	
KENNETH JOSEPH OWEN THOMAS,	:	
	:	
Defendant.	:	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S
SUMRALL PROFFER (ECF NO. 145)**

The United States of America respectfully files this Response to the Defendant’s recent proffer regarding defense witness Jonathan Sumrall (ECF No. 145).

RESPONSE

First, the Defendant’s proffer runs contrary to this Court’s explicit and repeated orders that defense witnesses will not be permitted to testify to facts that the Defendant on trial, Kenneth Joseph Thomas, did not also observe. The proffer states that Mr. Sumrall will testify that he entered Capitol Grounds around 1:15 PM and observed “five police officers who stood to one side and did not interact with the crowd . . . [and he] believed that the police officers were simply watching and allowed the crowd through[.]” ECF No. 145 at 2-3. Given Thomas did not arrive to that area until one hour later, given he was video recording much of his pathway onto Capitol Grounds, given those videos do not similarly show any such five police officers, and given, upon information and belief, the Defendant has made no similar statement on the stand during his trial testimony, Mr. Sumrall should not be permitted to testify to these facts. Second, if Mr. Sumrall is going to testify only as to the lack of signs on bicycle racks and the non-violent tenor of the crowd on the

West Front, this testimony is cumulative of the proffered testimony of Mr. Trennis Evans. Therefore, it is unnecessary.

CONCLUSION

Because Mr. Sumrall's testimony will be cumulative, it should not be permitted.

Respectfully submitted,

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