UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, v. MATTHEW EUGENE LOGANBILL, Defendant.	Crim. Action No. 21-0593 (ABJ)

ORDER

Defendant Matthew Eugene Loganbill, who is charged in a five-count indictment for his actions at the United States Capitol on January 6, 2021, *see* Indictment [Dkt. # 15], has moved to transfer venue. *See* Def.'s Mot. to Transfer Venue [Dkt. # 44] ("Mot."). He argues that the Court will be unable to seat the impartial jury guaranteed by the Fifth and Sixth Amendments to the United States Constitution, and that a presumption of juror prejudice should attach in the venire. *See id.* at 2–22. In support of his motion, defendant submitted a survey of "jury-eligible citizens" that was commissioned by the Office of the Federal Public Defender for the District of Columbia, Ex. 1 to Def.'s Mot. [Dkt. # 44-1] ("Hickman Survey"), as well as a survey conducted by In Lux Research on behalf of defendants in another January 6 case and given to "potential jurors" in Washington, D.C. *See* Ex. 2 to Def.'s Mot. [Dkt. # 44-2] ("In Lux Survey") at 2.[1] Defendant maintains that these surveys show that "D.C. jurors are demonstrably more hostile towards January 6 defendants than adults surveyed nationwide[.]" Mot. at 1.

1 Because the defendant has taken no efforts to contextualize either the Hickman Survey or the In Lux Survey and explain their applicability to his case in particular, the Court refers defendant to its analysis of these same surveys in *United States v. Garcia* and *United States v. Williams*, which it also adopts here. *See Garcia*, No. 21-cr-0129 (ABJ), 2022 WL 2904352 (D.D.C. July 22, 2022); Order, *Williams*, No. 21-cr-618 (ABJ) (D.D.C. Aug. 12, 2022) [Dkt. # 63].

While every defendant is unique and every motion must be assessed on an individual basis, it is important to note at the outset that neither this Court nor any other court in this district has granted a motion to transfer a January 6 defendant's trial to another venue in advance of voir dire, even when the motion was supported by the Hickman Survey. *See, e.g.*, *United States v. Garcia*, No. 21-cr-0129 (ABJ), 2022 WL 2904352, at *14–*15 (D.D.C. July 22, 2022) (analyzing Hickman Survey); Order, *United States v. Williams*, No. 21-cr-618 (ABJ), at 2, 7–31 (D.D.C. Aug. 12, 2022) [Dkt. # 63] (same); Order, *United States v. Adams*, No. 21-cr-212 (ABJ), at 2–3, 6–16 (D.D.C. Jan. 24, 2023) [Dkt. # 60] (same); *see also* Order, *United States v. Samsel*, No. 21-cr-537 (JMC), at 3–8 (D.D.C. Dec. 14, 2022) [Dkt. # 227] (same); *United States v. Ballenger*, No. 21-cr-719 (JEB), 2022 WL 16533872, at *2–*4 (D.D.C. Oct. 28, 2022) (same); *United States v. Nassif*, No. 21-cr-421 (JDB), 2022 WL 4130841, at *8–*10 (D.D.C. Sept. 12, 2022) (same); *United States v. Brock*, No. 21-cr-140 (JDB), 2022 WL 3910549, at *4–*8 (D.D.C. Aug. 31, 2022) (same); Op. and Order, *United States v. Strand*, No. 21-cr-85 (CRC), at 2–3 (D.D.C. Aug. 17, 2022) [Dkt. # 89] (same); *United States v. Rhodes*, 610 F. Supp. 3d 29, 56–59 (D.D.C. 2022) (same); Order, *United States v. Webster*, No. 21-cr-208 (APM), at 2 (D.D.C. Apr. 18, 2022) [Dkt. # 78] (same); *United States v. Eicher*, No. 22-cr-38 (CKK), 2022 WL 11737926, at *3–*4 (D.D.C. Oct. 20, 2022); Min. Order, *United States v. Parks*, No. 21-cr-411 (APM) (D.D.C. Aug. 5, 2022); Min. Entry, *United States v. Williams*, No. 21-cr-377 (BAH) (D.D.C. June 10, 2022); Min. Entry, *United States v. McHugh*, No. 21-cr-453 (JDB) (D.D.C. May 4, 2022); Order, *United States v. Alford*, No. 21-cr-263 (TSC), at 5–14 (D.D.C. Apr. 18, 2022) [Dkt. # 46]; Mem. Op. and Order, *United States v. Brooks*, No. 21-cr-503 (RCL), at 6–7 (D.D.C. Jan. 24, 2022) [Dkt. # 31]; *United States v. Bochene*, 579 F. Supp. 3d 177, 180–82 (D.D.C. 2022); Min. Order, *United States v. Fitzsimons*, No. 21-cr-158 (RC) (D.D.C. Dec. 14, 2021); Min. Order,

United States v. Reffitt, No. 21-cr-32 (DLF) (D.D.C. Oct. 15, 2021); Omnibus Order, *United States v. Crowl*, No. 21-cr-28 (APM), at 10–11 (D.D.C. Sept. 14, 2021) [Dkt. # 415]. Defendant Loganbill has not pointed to any unique circumstances that bear on venue that would warrant a different outcome in his case; indeed, he does not identify any unique circumstances at all.

The Court is bound by authority that instructs that voir dire is the proper means to determine whether it will be possible for a fair and impartial jury to be selected. Since defendant has not raised concerns that cannot be addressed through voir dire, the motion to transfer venue is **DENIED**.

BACKGROUND

Matthew Eugene Loganbill has been charged in a five-count indictment with the following offenses:

> Count I – Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. §§ 1512(c)(2), 2;
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> Count II – Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1);
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> Count III – Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2);
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> Count IV – Disorderly Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D);
>
> Count V – Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G).

Indictment. According to the affidavit in support of the criminal complaint filed by FBI Special Agent Michael D. Brown, defendant posted several Facebook comments in the weeks before January 6, 2021, indicating that he was "[t]hinking about heading to DC for the Stop the Steal rally" and that "[t]hey haven't seen a riot, til our side gets started." Aff. in Supp. of Compl.

[Dkt. # 1-1] ("Aff.") ¶ 19c. In an interview with the FBI on January 13, 2021, defendant admitted that he drove to Washington D.C. to attend the "Stop the Steal" rally on January 6, 2021 and marched with other protestors from the Ellipse to the U.S. Capitol. Aff. ¶ 16. Defendant told the FBI that he saw "several protestors fighting with the police" and others "breach[ing] the police line" at the U.S. Capitol Building. Aff. ¶ 16. He stated that the police fired tear gas into the crowd, and he "ducked behind a storage container and donned a gas mask and helmet that he had brought with him." Aff. ¶¶ 16, 17. Defendant claimed that after he emerged from behind the container, "the police skirmish line and barricades were gone," and he followed protesters into the U.S. Capitol. Aff. ¶ 17.

While defendant allegedly stated in a Facebook message on January 8, 2021, that he had been in the U.S. Capitol Building for 30 to 45 minutes, Aff. ¶ 19f, he told the FBI that he was inside the Capitol for "approximately 10 to 15 minutes." Aff. ¶ 18. Defendant also told the FBI that he spoke with an officer at the U.S. Capitol and told him "we came peacefully this time," but that "it would be different if we have to come again." Aff. ¶ 18. The government alleges that body worn camera footage from officers inside the U.S. Capitol Building on January 6 show defendant "yelling and cursing at police" for directing the protestors to leave, and that he did not leave the area until he was "physically pushed on the arm by one of the officers." Aff. ¶ 20. On January 7, 2021, defendant commented on his Facebook account, "[t]hey saw how easy we took the Capitol-unarmed and peacefully, next time . . . ." Aff. ¶ 19e (ellipsis in original).

On January 7, 2023, defendant moved to transfer venue from this district. *See* Mot. at 1. While he does not propose an appropriate alternate venue for his case, he maintains that the District of Columbia is a constitutionally impermissible venue for his trial because of: (1) the size and

characteristics of the D.C. jury pool, Mot. at 3–16, and (2) the pervasive pretrial publicity in the District of Columbia surrounding the events on January 6, *id.* at 16–20.

LEGAL STANDARD

The Sixth Amendment guarantees criminal defendants the right to a trial "by an impartial jury of the State and district wherein the crime [was allegedly] committed," U.S. Const. amend. VI, and Article III specifies that "such Trial shall be held in the State where the said Crimes [were allegedly] committed." U.S. Const. art. III, § 2, cl. 3; *see also id.* ("[W]hen not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.").

Federal Rule of Criminal Procedure 21 authorizes the transfer of a case to another district, though, for prejudice or for convenience. A court has the discretion to transfer "for the convenience of the parties, any victim, and the witnesses, and in the interest of justice" under Rule 21(b), but Rule 21(a) requires that upon the defendant's motion, "the court *must* transfer the proceeding against that defendant to another district if the court is satisfied that so great a prejudice against the defendant exists in the transferring district that the defendant cannot obtain a fair and impartial trial there." Fed. R. Crim. P. 21(a) (emphasis added). The Supreme Court reiterated this principle in *Skilling v. United States*, 561 U.S. 358, 378 (2010), and it recognized that transfer of the proceeding to a different district "if extraordinary local prejudice will prevent a fair trial" is a "basic requirement of due process."

The question now is whether that level of prejudice has been shown at this early stage in the proceedings. The Supreme Court went on to explain in *Skilling* that a "presumption of prejudice . . . attends only the extreme case." 561 U.S. at 381. It reviewed the cases in which it had concluded that juror prejudice could be presumed – *Rideau v. Louisiana*, 373 U.S. 723 (1963), *Estes v. Texas*, 381 U.S. 532 (1965), and *Sheppard v. Maxwell*, 384 U.S. 333 (1966) – and noted

that in each, it had "overturned a conviction obtained in a trial atmosphere that [was] utterly corrupted by press coverage." 561 U.S. at 380 (internal quotation marks omitted). It took pains to caution that those "decisions . . . 'cannot be made to stand for the proposition that juror exposure to . . . news accounts of the crime . . . alone presumptively deprives the defendant of due process.'" *Id.*, quoting *Murphy v. Florida*, 421 U.S. 794, 798–99 (1975).

> Prominence does not necessarily produce prejudice, and juror *impartiality*, we have reiterated, does not require *ignorance*.

Skilling, 561 U.S. at 381 (emphasis in original).

Furthermore, the D.C. Circuit has instructed that it is preferable to conduct voir dire in the first instance to determine whether it will be possible for a fair and impartial jury to be selected. *See United States v. Haldeman*, 559 F.2d 31, 62–63 (D.C. Cir. 1976) (en banc) (per curiam) (counseling against a "pre-voir dire conclusion" that "a fair jury cannot be selected"). That is because "pretrial publicity, even if pervasive and concentrated, cannot be regarded as leading automatically and in every kind of criminal case to an unfair trial." *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 565 (1976). Instead, a "thorough examination of jurors on voir dire" is the most important tool for ensuring that a defendant receives a fair and unbiased jury. *Id.* at 554–55; *see also Haldeman*, 559 F.2d at 63 ("[I]f an impartial jury actually cannot be selected, that fact should become evident at the voir dire.").

ANALYSIS

I. Voir dire is the appropriate way to assess potential juror prejudice and bias.

The motion before the Court posits that "*voir dire* is not a cure for significant and substantiated Due Process concerns about the jury pool," relying upon the Supreme Court's decision in *Skilling v. United States* to argue that a presumption of juror prejudice attaches. Mot. at 3. *Skilling* was a case brought in the wake of the Enron bankruptcy, in which Jeffrey Skilling,

Enron's former Chief Executive Officer, was charged in a scheme to deceive investors by overstating the company's financial health. 561 U.S. at 367–69.

But in *Skilling*, the Supreme Court *rejected* the notion that a change of venue should have been granted, even though the local publicity after the Enron collapse had been relentless. *Id.* at 381–85. Moreover, the impact of the alleged fraud was felt particularly keenly in Houston, where Enron was located, and many residents had lost their jobs or hard-earned pensions heavily invested in Enron stock. *Id.* at 375–76. Skilling argued that the trial court erred in refusing to move the trial to a different venue based on a presumption of prejudice given "the community passion aroused by Enron's collapse and the vitriolic media treatment aimed at him." 561 U.S. at 377 (internal quotation marks omitted); *see also id.* at 369 (Skilling maintained that "hostility toward him in Houston, coupled with extensive pretrial publicity, had poisoned potential jurors").

The Supreme Court differentiated the case before it from those where juror prejudice had been presumed, and it highlighted three relevant factors: (1) "the size and characteristics of the community in which the crime occurred"; (2) whether pretrial publicity "contained [a] confession or other blatantly prejudicial information of the type readers or viewers could not reasonably be expected to shut from sight"; and (3) the amount of time that had elapsed since the alleged crime and whether the passage of time had led to "diminished" media attention. 561 U.S. at 382–84.[2]

Ultimately the Court found that the "sheer number of victims" was not enough to trigger a presumption of prejudice; "[a]lthough the widespread community impact necessitated careful identification and inspection of prospective jurors' connections to Enron, the extensive screening questionnaire and followup *voir dire* were well suited to that task." *Id.* at 384.

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2 A fourth factor relevant to the post-conviction review in *Skilling* that does not bear on this motion was whether the jury's verdict reflected an absence of prejudice, and the Court took note of the fact that Skilling had been acquitted on some counts. 561 U.S. at 383–84.

Defendant attempts to distinguish *Skilling* and compare his case to *Rideau v. Louisiana*, 373 U.S. 723 (1963), where the Court held that defendant was denied due process by the trial court's failure to grant a transfer of venue ahead of voir dire, after defendant's interview "of interrogation by the sheriff and admissions by Rideau that he had perpetrated the bank robbery, kidnapping, and murder" was broadcasted to approximately 100,000 people over three days in a parish with a population of about 150,000. *Id.* at 724–26; *see* Mot. at 3–4. Defendant's reliance on *Rideau*, however, is misplaced. In *Skilling*, the Supreme Court reviewed the cases in which it had concluded that transfer was required – including *Rideau* – and noted that in each, it had "overturned a conviction obtained in a trial atmosphere that [was] utterly corrupted by press coverage." 561 U.S. at 380 (alteration in original and internal quotation marks omitted). It took pains to caution that those decisions "cannot be made to stand for the proposition that juror exposure to . . . news accounts of the crime . . . alone presumptively deprives the defendant of due process." *Id.*, quoting *Murphy v. Florida*, 421 U.S. 794, 798–99 (1975).

If it was appropriate to proceed to voir dire and attempt to seat a jury in *Skilling*, the decision does not do much to mandate a change of venue in this one, where (1) both the alleged objective of the charged offenses and the effects felt were largely national; (2) the media coverage of the event as a whole – while substantial – has been largely national as well; and (3) importantly, with a few exceptions, the media coverage has largely related to the conduct of the rioters as a whole, and it has addressed individuals who may have organized or inspired them, but it has not been focused on the defendant personally as it was in *Skilling*. While defendant maintains that the characteristics of the community and the pretrial publicity present constitutional concerns in his case, Mot. at 4, a consideration of the *Skilling* factors suggests that his motion is premature.

a. *Size and Characteristics of the Community.*

The first factor does not support a change in venue. Defendant argues that the District of Columbia is "a compact major U.S. city and the smallest federal district in the nation" which contributes to a presumption of prejudice. Mot. at 12. Washington, D.C. has approximately 700,000 residents, and about 426,000 of those residents may be in the jury pool in this case.[3] It is not a particularly large community, but it is not a small or insular one, either. *See Skilling*, 561 U.S. at 382 (differentiating between communities with 150,000 residents and larger communities with venires of approximately 600,000 individuals), comparing *Gentile v. State Bar of Nev.*, 501 U.S. 1030, 1044 (1991) (plurality opinion) and *Rideau*, 373 U.S. at 724. The Master list of available jurors is large enough to include individuals who have paid little or no attention to the January 6 cases.[4] It includes several hundred thousand District residents who may not be involved in policy or politics or the operation of the federal government at all, in addition to, as the defendant put it, "a large proportion of D.C. residents [who] either work for the federal government . . . or have friends or family who do." Mot. at 12. While there is no dispute that many who live in the nation's capital are employed by one of the branches of the federal government, that does not mean that those employees can be presumed to be biased based on that

3 The Jury Office reported that the Master Jury Wheel was comprised of 426,277 citizens as of December 16, 2022. Jury Office for the U.S. District Court for the District of Columbia, Master Jury Wheel (2022) (accessed Dec. 16, 2022) (on file with Jury Office). The 2020 United States census estimated the District's population at 689,545. *The District of Columbia Gained More Than 87,000 People in 10 Years*, United States Census Bureau (Aug. 25, 2021), https://www.census.gov/library/stories/state-by-state/district-of-columbia-population-change-between-census-decade.html.

4 This conclusion is strengthened by the Hickman Survey, which indicates that only 33% of D.C. residents surveyed had seen or read "a lot" about the January 6 cases, while 25% had seen or heard "some," and 13% had seen or heard "not much" or "none at all." Hickman Survey at 14.

fact alone.[5] The Master list includes people who travel to and from work or school without coming near the Capitol, and who may have never heard of the defendant. In sum, while it is not the largest district in the country, the size of the Washington, D.C. jury pool weighs against transfer in this instance.

As for the characteristics of the community, defendant makes the sweeping assertion that "even D.C. residents not employed by the government report feeling deeply traumatized by the events that took place so close to where they live and work," pointing to the "state of emergency, . . . city-wide curfew, restricted access to particular roads and bridges, . . . request[] that residents not attend [the] inauguration," and the deployment in D.C. neighborhoods of the "Metropolitan Police and over 25,000 military personnel . . . in the weeks that followed." Mot. at 14–15. For one thing, the curfew was only in place for one single night. *See* Nick Boykin, Matt Pusatory & Jonathan Franklin, *DC Lifts Curfew After Riots at the Capitol, Public Emergency Extended for 15 Days*, WUSA9 (Jan. 7, 2021), https://www.wusa9.com/article/news/local/dc/washington-dc-curfew-amid-unrest-at-capitol-building/65-becf9868-3413-4cf8-a930-cbb8f2813f2b. And the road closures around the Capitol did not profoundly affect the bulk of area residents; the attack on the Capitol took place during the pandemic, when most government and downtown offices were closed, and all but essential employees were working remotely. Public gatherings were already discouraged in Washington, D.C. at this time, *see* Mayor's Order 2020-127, Gov't of the Dist. of Columbia (Dec. 18, 2020), https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayor%27s%20Order%20127%2012-18-2020.pdf (extending public emergency and public health

5 Further, it cannot be assumed that all federal government employees who work in the District of Columbia – even those who work on Capitol Hill – also reside there.

emergency through March 31, 2021, and imposing the following through January 15, 2021: "Restaurants shall return to having no indoor dining"; "Non-essential businesses are required to telework, except in person staff needed to support minimum business operations"), and all Americans were instead encouraged to virtually participate in the inauguration. Joint Statement from Bowser, Hogan & Northam on Planning for the 59th Presidential Inauguration (Jan. 11, 2021), https://mayor.dc.gov/release/joint-statement-bowser-hogan-and-northam-planning-59th-presidential-inauguration. Also, the temporary disruption in travel was short-lived and centered around the Capitol building itself, and the motion ignores the fact that a substantial portion of D.C. residents do not live or work or go to school on Capitol Hill and seldom even need to drive by the area. For these same reasons, the deployment of the Metropolitan Police and military personnel around the Capitol building did not affect most residents. Moreover, this Court has been provided with no basis to assume that District residents would be so annoyed by a narrow set of street closures that they would be unable to serve as fair-minded jurors nearly two years after the restrictions were lifted.

Another "characteristic" the defendant points to is the District's voting patterns. *See* Mot. at 15–16 ("[A]n overwhelming number of D.C. residents – over 92 percent – voted for President Biden."). Defendant posits that this "stark political divide (and impact on juror attitudes) would not be as uniformly present in a different jurisdiction" because the government's case will argue that many of those who came to the Capitol on January 6 "acted to prevent Joseph Biden from becoming President." *Id.* at 15–16. The D.C. Circuit has already established that "a community's voting patterns are [not] at all pertinent to venue." *Haldeman*, 559 F.2d at 64, n.43. Defendant's assumption, presumably, is that those who voted against Trump feel personally targeted by his actions and are unable to fairly assess whether the government has produced sufficient evidence

to prove a particular January 6 offense beyond a reasonable doubt. But defendant's statistics do not account for the substantial numbers of individuals who did not vote at all, General Election 2020 – Certified Results Dist. of Columbia Bd. of Elections, https://electionresults.dcboe.org/election_results/2020-General-Election (reporting 344,356 votes for president out of 517,890 registered voters), and in any event, that sort of bias must be shown through voir dire. Leaping to conclusions will not suffice.

Therefore, the size of the Washington, D.C. jury pool weighs against transfer in this case, and other community characteristics – including the community's voting patterns, which do not factor into the venue analysis at all – do not weigh in favor of a transfer of venue.

b. *Pretrial Publicity.*

Defendant also argues that the nature and volume of national and local media coverage point to a finding that there is a presumption of prejudice at the local level in this district. Mot. at 16–20. The January 6 cases have undoubtedly attracted nationwide media attention, but they are not unique in this regard. For example, in *Haldeman*, a grand jury indicted three high-level officials in the Nixon administration for "a wide-ranging conspiracy designed to impede a grand jury investigation into the break-in at the Democratic National Committee [] headquarters in the Watergate Office Building," charging what was, at the time, "an unprecedented scandal at the highest levels of government." *Haldeman*, 559 F.2d at 51–52. And yet, even though the case received "extraordinarily heavy coverage in both national and local news media," *id.* at 59, juries were successfully seated; the D.C. Circuit declined to find that the defendants' due process rights were violated by the district court's refusal to grant a change of venue. *See id.* at 62–64. This is not a unique situation; the government points to a number of high-profile cases where publicity alone did not warrant a transfer:

> In the half century since *Rideau*[, 373 U.S. 723, 724 (1963), a case where defendant's "interrogation by the sheriff and admissions by Rideau that he had perpetrated the bank robbery, kidnapping, and murder" was broadcast to approximately 100,000 people over three days in a parish with a population of about 150,000], the Supreme Court has never presumed prejudice based on pretrial publicity. . . . In fact, courts have declined to transfer venue in some of the most high-profile prosecutions in recent American history. *See In re Tsarnaev*, 780 F.3d 14, 15 (1st Cir. 2015) (per curiam) (capital prosecution of Boston Marathon bomber); *Skilling*, 561 U.S. at 399 (fraud trial of CEO of Enron Corporation); *United States v. Yousef*, 327 F.3d 56, 155 (2d Cir. 2003) (trial of participant in 1993 World Trade Center bombing); *United States v. Moussaoui*, 43 F. App'x 612, 613 (4th Cir. 2002) (per curiam) (unpublished) (terrorism prosecution for conspirator in September 11, 2001 attacks); *Haldeman*, 559 F.2d at 70 (Watergate prosecution of former Attorney General John Mitchell and other Nixon aides).

Gov't's Opp. to Mot. [Dkt. # 48] at 5–6.

In those instances, the safeguard against a biased jury has been an "extensive voir dire" with a "detailed inquiry into the sources and intensity of the [] exposure to [pretrial] publicity." *Haldeman*, 559 F.2d at 69; *see also id.* at 64 n.43 ("It is our judgment that in determining whether a fair and impartial jury could be empanelled the trial court did not err in relying less heavily on a poll taken in private by private pollsters and paid for by one side than on a recorded, comprehensive voir dire examination conducted by the judge in the presence of all parties and their counsel pursuant to procedures, practices and principles developed by the common law since the reign of Henry II"); *Tsarnaev*, 780 F.3d at 17 ("[C]oncerns about jurors who have fixed opinions or emotional connections to events, or who are vulnerable to improper influence from media coverage, are legitimate concerns. The court and the parties are diligently addressing them through the voir dire process.") (brackets omitted); *Skilling*, 561 U.S. at 389 ("Inspection of the questionnaires and *voir dire* of the individuals who actually served as jurors satisfies us that . . . the selection process successfully secured jurors who were largely untouched by Enron's collapse."); *Yousef*, 327 F.3d at 155 ("[T]he District Court conducted an extensive voir dire and

the jurors that were picked had either never heard of Yousef or could not remember any of the details of his alleged involvement in the World Trade Center bombing."). Here too, voir dire will allay defendant's concerns.

The media coverage of the events of January 6, while substantial, has been largely concerned with the group of protestors as a whole. While much has been published about the people who have been charged in general, the press has tended to focus more specifically on a handful of individuals with unique characteristics or those who have been charged with the most serious offenses, including organizing others. Defendant acknowledges this, stating, "[m]ost, if not all, of [January 6 videos and photos circulated] ha[ve] nothing to do with Mr. Loganbill or this prosecution." Mot. at 18–19. He has not directed the Court to a single article or broadcast disseminated by a local or Washington-based national news outlet that named him personally or reported on his role in the events.[6] Defendant has not come forward with a single fact that gives rise to a concern that even one member of the jury pool knows who he is. But even in a case where an individual participant in the events of January 6 has attracted national attention, the voir dire process provides a full opportunity to explore whether any juror has read or heard or seen anything about the defendant, and whether the juror has formed an opinion as a result. Because there has

6 There are, though, numerous articles about the defendant that have been published in Missouri-based news outlets. *See, e.g.*, Associated Press, *Versailles Man Arrested in Connection to D.C. Capitol Riot*, KMZU.com (June 2, 2022), https://www.kmzu.com/news/versailles-man-arrested-in-connection-to-d-c-capitol-riot/article_726c72a8-a843-50e4-a03d-1485ae1f91bf.html; Dan Claxton, *Versailles Man Accused in Insurrection Scheduled for Friday Hearing*, KRCG TV (Jan. 6, 2022), https://krcgtv.com/news/local/accused-january-6-rioter-in-court-friday; Judy L. Thomas, *Missouri Gun Dealer Charged in Capitol Riot Competed in Shooting Contest this Month*, The Kansas City Star (July 26, 2021), https://www.kansascity.com/news/local/crime/article253023063.html; Kari Williams, *Missouri Firearms Store Owner Charged in Connection to Capitol Riot*, KSHB.com (Mar. 29, 2021), https://www.kshb.com/news/crime/missouri-firearms-store-owner-charged-in-connection-to-capitol-riot.

been no information specific to this defendant publicized in the local media, much less the sort of highly prejudicial information that worried the Supreme Court in *Rideau*, the second *Skilling* factor does not necessitate a change in venue.

c. *Amount of Time Elapsed Since January 6, 2021.*

The third factor is the amount of time that has passed since January 6, 2021, and whether the passage of time has led to "diminished" media attention. *Skilling*, 561 U.S. at 383. While defendant does not address this factor in his motion, the Court finds that this factor also weighs against transferring the case.

Although more than two years have elapsed since January 6, 2021, there has recently been renewed attention on the events of that day because of the widespread coverage of the congressional hearings conducted by the Select Committee to Investigate the January 6th Attack on the United States Capitol. However, the congressional hearings and the media coverage have related primarily to the events of January 6 in general and the role that public officials and their advisors and campaigns may have played in bringing them about, not the particular activities of any individual defendant who entered the Capitol.[7] After the first hearing, which did include footage of the attack on the Capitol and the outnumbered law enforcement officers trying to protect it,[8] the focus moved to legal and political machinations behind the scenes to substitute electors or

7 *See, e.g.*, Caroline Linton, Kathryn Watson, Stefan Becket, Caitlin Yilek & Melissa Quinn, *House Jan. 6 Committee Votes to Refer Criminal Charges for Trump*, CBS News (Dec. 19, 2022), https://www.cbsnews.com/live-updates/house-january-6-committee-final-hearing-watch-live-stream-today-2022-12-19/.

8 *See, e.g.*, Domenico Montanaro, *New Revelations and 3 Other Takeaways from the First Jan. 6 Committee Hearing*, NPR (June 10, 2022), https://www.npr.org/2022/06/10/1104103404/new-revelations-and-other-takeaways-from-first-jan-6-committee-hearing (the hearing revealed "[n]ot previously publicly seen video footage from police body cameras, Capitol hallway and office footage, as well as police radio communication").

overturn the results of the elections in other ways, and there has been little mention of the rioters themselves.[9] Unsurprisingly, the defendant has not been named or singled out in any of the presentations.

Finally, the Court's assessment that presuming prejudice would be unwarranted in this case under the *Skilling* factors has been borne out by the actual experience of other courts in this district. Courts have qualified enough jurors to empanel juries, with the requisite number of alternates, in all January 6 cases to date. *See* Min. Entries (Nov. 7–8, 2022), *Williams*, No. 21-cr-618; Min. Entries (Sept. 28–29, 2022), *Alford*, No. 21-cr-263; Min. Entries (Sept. 27–29, 2022), *Rhodes*, No. 22-cr-15 (as to defendants Rhodes, Meggs, Harrelson, Watkins, and Caldwell); Min. Entries (Sept. 19–20, 2022), *Strand*, No. 21-cr-85 ; Min. Entry, *United States v. Bledsoe*, No. 21-cr-204 (1) (BAH) (D.D.C. July 18, 2022); Min. Entry (June 27, 2022), *Williams*, No. 21-cr-377; Min. Entry, *United States v. Hale-Cusanelli*, No. 21-cr-37 (TNM) (D.D.C. May 23–24, 2022); Min. Entry (Apr. 25, 2022), *Webster*, No. 21-cr-208; Min. Entry, *United States v. Thompson*, No. 21-cr-161 (RBW) (D.D.C. Apr. 11, 2022); Min. Entry, *United States v. Robertson*, No. 21-cr-34 (CRC) (D.D.C. Apr. 5, 2022); Min. Entries (Feb. 28, 2022; Mar. 1, 2022), *Reffitt*, No. 21-cr-32.

There has been no indication in any January 6 trial in this courthouse that prejudice is so widespread in the venire that the ordinary voir dire process will be insufficient to guarantee a fair jury, and so there is no reason to transfer this case without first trying to select a jury here.

9 *See, e.g.*, Alan Feuer, *Key Findings From the Jan. 6 Committee's Report, Annotated*, N.Y. Times (Dec. 19, 2022), https://www.nytimes.com/2022/12/19/us/politics/jan-6-committee-key-findings.html.

CONCLUSION

For all of these reasons, defendant's motion to transfer venue is **DENIED.**

SO ORDERED.

AMY BERMAN JACKSON
United States District Judge

DATE: April 19, 2023