

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

UNITED STATES OF AMERICA

v.

BENJAMIN MARTIN,

Defendant.

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Case No. 21-cr-562-RC

NOTICE OF FILING

The government requests that the attached discovery letter, dated September 22, 2021, be made part of the record in this case.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY
D.C. Bar No. 415793

By: /s/ Alison B. Prout
Alison B. Prout
Georgia Bar No. 141666
Assistant United States Attorney
75 Ted Turner Drive, SW
Atlanta, Georgia 30303
Phone: (404) 581-6100

CERTIFICATE OF SERVICE

On September 22, 2021, a copy of the foregoing notice and attached discovery letter were served on counsel for defendant through the Court’s Electronic Filing System with the listed attachments provided to counsel through the means described in the discovery letter.

/s/ Alison B. Prout
Alison B. Prout
Assistant United States Attorney



U.S. Department of Justice

Channing D. Phillips
Acting United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

September 22, 2021

VIA EMAIL AND USAFX

Roger Nuttall
Nuttall & Coleman
2333 Merced Street
Fresno, CA 93721
angel@nuttallcoleman.com

Re: *United States v. Benjamin Martin*
Case No. 21-cr-562

Dear Counsel:

Today I have made available to you preliminary discovery via the USAfx portal in a folder named "U.S. v. Benjamin Martin, 21-cr-562." Within that folder is a subfolder named "2021-09-22 Discovery Production" that contains the following materials:

- A folder named "Complaint" that contains 6 files, including the signed Complaint, Statement of Facts and Executed Arrest Warrant;
- A folder named "Facebook SW Return – Scoped" that contains 2 folders, one called "Relevant Media from SW" that contains 22 files, and one called "Relevant Pages from SW" that contains 2 files;
- A folder named "Facebook SW Return – Unscoped" that contains the original search warrant return provided by Facebook comprised of 9 files, including 3 zip files with multiples subfiles.
- A folder named "Open Source Videos" that contains the following 8 videos:

File Name
@j12doz Twitter Video.mp4
Dominic Zimmerman Youtube.mp4
James Klug Twitter Video 1.mp4
James Klug Twitter Video 2.mp4
Martin Video.mp4
Martin Video Parler Propublica 1.mp4
Martin Video Parler Propublica 2.mp4
Ronald Weaver Facebook.mp4

- A folder named “BWC” (*i.e.*, body worn camera) that contains the following 2 videos:

File Name
(Clip 1.1) 20210106 FIRST AMENDMENT U.S CAPITOL FIRST ST SE.mp4
BWC of J.C.mp4

- A folder named “Premises Warrant – Under Seal” containing 5 files associated with the referenced search warrant. Please note that certain documents remain under seal, as noted on the document. These documents are being produced consistent with the included court order sealing such documents, but allowing them to be produced to the defendant in discovery.
- A folder named “Premises Firearms Warrant – Under Seal” containing 5 files associated with the referenced search warrant. Please note that certain documents remain under seal, as noted on the document. These documents are being produced consistent with the included court order sealing such documents, but allowing them to be produced to the defendant in discovery.
- A folder named “Miscellaneous” that contains the following three files:

File Name
Martin Domestic Violence Battery Conviction record.pdf
Officer North Door.pptx
RE [EXTERNAL EMAIL] - Martin2 Redacted.pdf

- A folder named “Serials” that contains 149 files relevant to the FBI’s investigation of Mr. Martin listed in the enclosed index

As part of our ongoing discovery production in this case, you will also receive an invitation via USAFx to download reports from U.S. Capitol Police (USCP) investigations of alleged wrongdoing by USCP officers on January 6, 2021. Officer names, witness names, and complainant names have been redacted. We are working to produce a set of reports that replaces

the redactions with unique identifiers for individuals whose names have been redacted. When that process is complete, we will reproduce the documents with the unique identifiers. Additional exhibits from these investigations are forthcoming. At this time, we understand that a small number of investigations are still on-going, and we will provide reports of those investigations on a rolling basis as they are concluded.

Additional files will be made available to you upon the entry of an acceptable protective order. Please let me know whether the defendant consents to the proposed protective order sent to you and Mr. Coleman by email on September 14, 2021, or whether you wish to discuss the proposed terms.

Due to the extraordinary nature of the January 6, 2021 Capitol Attack, the government anticipates that a large volume of materials may contain information relevant to this prosecution. These materials may include, but are not limited to, surveillance video, statements of similarly situated defendants, forensic searches of electronic devices and social media accounts of similarly situated defendants, and citizen tips. The government is working to develop a system that will facilitate access to these materials. In the meantime, please let me know if there are any categories of information that you believe are particularly relevant to your client.

Some defense counsel in the Capitol Breach cases have requested information that they claim suggests a member (or members) of law enforcement allowed people to enter or remain in the Capitol or on restricted grounds, acted friendly or sympathetic to the rioters, or otherwise failed to do their jobs. As an initial matter, we do not believe that such information is exculpatory as to guilt or punishment within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1973). Nevertheless, the government possesses some information that arguably could be responsive to these requests. Out of an abundance of caution, the government will be making such information available to you, if it has not done so already.

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio, Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant(s) disclose prior statements of any witnesses defendant(s) intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant(s) with materials relating to government witnesses.

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant(s) provide the government with the appropriate written notice if defendant(s) plans to use one of the defenses referenced in those rules. Please provide any notice

within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

/s/ Alison B. Prout

Alison B. Prout

Assistant United States Attorney

Encl.

<u>Serial Number</u>	<u>File Name</u>
3	266H-SC-3410518_0000003.pdf
3	266H-SC-3410518_0000003_1A0002251_0000001.jpg
3	266H-SC-3410518_0000003_1A0002251_0000002.jpg
3	266H-SC-3410518_0000003_1A0002252_0000001.pdf
3	266H-SC-3410518_0000003_1A0002253_0000001.pdf
6	266H-SC-3410518_0000006.pdf
6	266H-SC-3410518_0000006_1A0000873_0000001.pdf
7	266H-SC-3410518_0000007_Redacted.pdf
7	266H-SC-3410518_0000007_1A0000076_0000001_Redacted.pdf
10	266H-SC-3410518_0000010.pdf
10	266H-SC-3410518_0000010_1A0000002_0000001.pdf
10	266H-SC-3410518_0000010_Import.pdf
11	266H-SC-3410518_0000011.pdf
12	266H-SC-3410518_0000012.pdf
13	266H-SC-3410518_0000013.pdf
13	266H-SC-3410518_0000013_1A0000001_0000001.pdf
14	266H-SC-3410518_0000014.pdf
14	266H-SC-3410518_0000014_1A0000897_0000001.PNG
14	266H-SC-3410518_0000014_1A0000897_0000002.PNG
14	266H-SC-3410518_0000014_1A0000897_0000003.PNG
14	266H-SC-3410518_0000014_1A0000897_0000004.PNG
14	266H-SC-3410518_0000014_1A0000897_0000005.PNG
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14	266H-SC-3410518_0000014_1A0000897_0000007.PNG
15	266H-SC-3410518_0000015.pdf
15	266H-SC-3410518_0000015_1A0000167_0000001.msg
15	266H-SC-3410518_0000015_1A0000168_0000001.pdf
16	266H-SC-3410518_0000016.pdf
16	266H-SC-3410518_0000016_1A0000002_0000001.pdf
16	266H-SC-3410518_0000016_1A0000003_0000001.msg
17	266H-SC-3410518_0000017.pdf
17	266H-SC-3410518_0000017_1A0000004_0000001.png
17	266H-SC-3410518_0000017_1A0000004_0000002.png
18	266H-SC-3410518_0000018.pdf
18	266H-SC-3410518_0000018_1A0000005_0000001.pdf
18	266H-SC-3410518_0000018_1A0000006_0000001.msg
19	266H-SC-3410518_0000019.pdf
19	266H-SC-3410518_0000019_1A0000007_0000001_PHYSICAL.pdf
20	266H-SC-3410518_0000020_1A0000008_0000001.jpg
20	266H-SC-3410518_0000020_1A0000008_0000002.png
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20	266H-SC-3410518_0000020_1A0000008_0000006.png
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25	266H-SC-3410518_0000025.pdf
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25	266H-SC-3410518_0000025_1A0000059_0000005.pdf
34	266H-SC-3410518_0000034.pdf
34	266H-SC-3410518_0000034_1A0000861_0000001.msg
34	266H-SC-3410518_0000034_1A0000862_0000001.pdf
36	266H-SC-3410518_0000036.pdf
36	266H-SC-3410518_0000036_1A0000009_0000001.pdf
37	266H-SC-3410518_0000037.pdf
37	266H-SC-3410518_0000037_Import.txt
39	266H-SC-3410518_0000039.pdf
39	266H-SC-3410518_0000039_1A0000011_0000001_Redacted.pdf
41	266H-SC-3410518_0000041.pdf
41	266H-SC-3410518_0000041_1A0000012_0000001.msg
41	266H-SC-3410518_0000041_1A0000012_0000002.pdf
42	266H-SC-3410518_0000042.pdf
42	266H-SC-3410518_0000042_1A0000013_0000001_PHYSICAL.pdf
43	266H-SC-3410518_0000043.pdf
43	266H-SC-3410518_0000043_1A0000014_0000001.pdf
43	266H-SC-3410518_0000043_1A0000014_0000002_Redacted.pdf
46	266H-SC-3410518_0000046.pdf
46	266H-SC-3410518_0000046_1A0000015_0000001.pdf
46	266H-SC-3410518_0000046_1A0000015_0000002.pdf
46	266H-SC-3410518_0000046_1A0000015_0000003.msg
47	266H-SC-3410518_0000047.pdf
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48	266H-SC-3410518_0000048_1A0000018_0000002.mp4
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