

APPEAL,CAP,CAT B,CLOSED

**U.S. District Court  
District of Columbia (Washington, DC)  
CRIMINAL DOCKET FOR CASE #: 1:22-cr-00070-RDM-1**

Case title: USA v. DENNEY

Magistrate judge case number: 1:21-mj-00686-RMM-ZMF

Date Filed: 03/07/2022

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Assigned to: Judge Randolph D. Moss

Appeals court case number: 22-3084

**Defendant (1)**

**LUCAS DENNEY**

represented by **John M. Pierce**  
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*TERMINATED: 04/28/2022*  
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**William Lee Shipley , Jr.**  
LAW OFFICES OF WILLIAM L.  
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**Pending Counts**

18 U.S.C. 111(a)(1) and (b);  
ASSAULTING/RESISTING/IMPEDING  
OFFICERS/EMPLOYEES; Assaulting,  
Resisting, or Impeding Certain Officers  
Using a Dangerous Weapon  
(1)

**Disposition**

Defendant Sentenced to Fifty-Two (52)  
Months of Incarceration; Followed by  
Thirty-Six (36) Months of Supervised  
Release. A \$100.00 Special Assessment is  
imposed.

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

COMPLAINT in Violation of 18:111(a)(1) and (b), 18:231(a)(3), 18:1512(c)(2), 18:1512(k), 18:1752(a)(1) and 1752(b)(1)(A), 18:1752(a)(2) and 1752(b)(1)(A), 18:1752(a)(4) and 1752(b)(1)(A) and 40:5104(e)(2)(F)

**Disposition**

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**Interested Party**

**PRESS COALITION**

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**Plaintiff****USA**

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Date Filed	#	Page	Docket Text
12/07/2021	<u>1</u>		SEALED COMPLAINT as to DONALD HAZARD (1), LUCAS DENNEY (2). (Attachments: # <u>1</u> Statement of Facts) (zstd) [1:21-mj-00686-RMM-ZMF] (Entered: 12/08/2021)
12/07/2021	<u>3</u>		MOTION to Seal Case by USA as to DONALD HAZARD, LUCAS DENNEY. (Attachments: # <u>1</u> Text of Proposed Order)(zstd) [1:21-mj-00686-RMM-ZMF] (Entered: 12/08/2021)
12/08/2021	<u>4</u>		ORDER granting <u>3</u> Motion to Seal Case as to DONALD HAZARD (1), LUCAS DENNEY (2). Signed by Magistrate Judge Robin M. Meriweather on 12/8/2021. (zstd) [1:21-mj-00686-RMM-ZMF] (Entered: 12/08/2021)
12/13/2021	<u>5</u>		Arrest Warrant, dated 12/7/2021, Returned Executed on 12/13/2021 as to LUCAS DENNEY. (bb) [1:21-mj-00686-RMM-ZMF] (Entered: 12/14/2021)
12/13/2021			Arrest of LUCAS DENNEY in Texas. (bb) [1:21-mj-00686-RMM-ZMF] (Entered: 12/14/2021)
12/13/2021			Case unsealed as to DONALD HAZARD, LUCAS DENNEY (bb) [1:21-mj-00686-RMM-ZMF] (Entered: 12/14/2021)

01/27/2022	<u>12</u>		NOTICE OF ATTORNEY APPEARANCE Jennifer M Rozzoni appearing for USA. (Rozzoni, Jennifer) [1:21-mj-00686-RMM-ZMF] (Entered: 01/27/2022)
01/27/2022	<u>13</u>		NOTICE OF ATTORNEY APPEARANCE: John M. Pierce appearing for LUCAS DENNEY (Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 01/27/2022)
02/25/2022			Set/Reset Hearings as to LUCAS DENNEY: Initial Appearance set for 3/10/2022 at 2:00 PM by Telephonic/VTC before Magistrate Judge Zia M. Faruqui. (ztl) Modified date and time on 2/25/2022 (ztl). [1:21-mj-00686-RMM-ZMF] (Entered: 02/25/2022)
03/02/2022	<u>16</u>		MOTION for Release from Custody by LUCAS DENNEY. (Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 03/02/2022)
03/02/2022	<u>17</u>		MOTION for Leave to Appear Pro Hac Vice William Shipley Filing fee \$ 100, receipt number ADCDC-9076115. Fee Status: Fee Paid. by LUCAS DENNEY. (Attachments: # <u>1</u> Declaration of William Shipley, # <u>2</u> [Proposed] Order)(Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 03/02/2022)
03/02/2022	<u>18</u>		ERRATA by LUCAS DENNEY re <u>17</u> MOTION for Leave to Appear Pro Hac Vice William Shipley Filing fee \$ 100, receipt number ADCDC-9076115. Fee Status: Fee Paid. filed by LUCAS DENNEY (Attachments: # <u>1</u> Corrected Declaration of William Shipley)(Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 03/02/2022)
03/02/2022	<u>19</u>		ENTERED IN ERROR.....ERRATA by LUCAS DENNEY re <u>17</u> MOTION for Leave to Appear Pro Hac Vice William Shipley Filing fee \$ 100, receipt number ADCDC-9076115. Fee Status: Fee Paid. filed by LUCAS DENNEY (Attachments: # <u>1</u> Corrected Declaration of William Shipley)(Pierce, John) Modified on 3/3/2022 (zstd). [1:21-mj-00686-RMM-ZMF] (Entered: 03/02/2022)
03/02/2022			NOTICE OF CORRECTED DOCKET ENTRY: as to LUCAS DENNEY re <u>19</u> Errata, was entered in error as a duplicate filing of DE # 18. (zstd) [1:21-mj-00686-RMM-ZMF] (Entered: 03/03/2022)
03/03/2022			MINUTE ORDER as to LUCAS DENNEY (2). Upon consideration of the Defendant's Motion for Release from Custody <u>16</u> , the Court hereby ORDERS the Government to respond to the Motion by 5:00pm EST today, 3/3/2022. SO ORDERED. Signed by Magistrate Judge Zia M. Faruqui on 3/3/2022. (zpt) [1:21-mj-00686-RMM-ZMF] (Entered: 03/03/2022)
03/03/2022	<u>20</u>		ORDER Granting <u>17</u> Motion for Leave to Appear Pro Hac Vice William Shipley as to LUCAS DENNEY (2) Signed by Magistrate Judge Zia M. Faruqui on 3/3/2022. (zpt) [1:21-mj-00686-RMM-ZMF] (Entered: 03/03/2022)
03/03/2022	<u>21</u>		RESPONSE by USA as to LUCAS DENNEY re <u>16</u> MOTION for Release from Custody (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Rozzoni, Jennifer) [1:21-mj-00686-RMM-ZMF] (Entered: 03/03/2022)
03/04/2022	<u>22</u>		REPLY in Support by LUCAS DENNEY re <u>16</u> MOTION for Release from Custody (Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 03/04/2022)
03/04/2022			Set/Reset Hearings as to LUCAS DENNEY: Initial Appearance set for 3/7/2022 at 2:00 PM in Courtroom 4- In Person before Magistrate Judge Zia M. Faruqui.

		(ztl) [1:21-mj-00686-RMM-ZMF] (Entered: 03/04/2022)
03/05/2022	<u>23</u>	WITHDRAWN PURSUANT TO WITHDRAWAL FILED ON 3/16/2022.....Emergency MOTION for Release from Custody , Emergency MOTION to Dismiss Case by LUCAS DENNEY. (Pierce, John)[1:21-mj-00686-RMM-ZMF] Modified on 3/17/2022 (zltf). (Entered: 03/05/2022)
03/05/2022	<u>24</u>	ERRATA by LUCAS DENNEY re <u>23</u> Emergency MOTION for Release from Custody Emergency MOTION to Dismiss Case filed by LUCAS DENNEY (Pierce, John) [1:21-mj-00686-RMM-ZMF] (Entered: 03/05/2022)
03/05/2022		MINUTE ORDER: In light of Defendants Motion for Release from Custody (ECF No. <u>16</u> ) (the Motion) and the subsequent filings (ECF No. <u>21</u> and ECF No. <u>22</u> ), the Court hereby ORDERS counsel to appear for a hearing on the Motion, on Monday, March 7, 2022 at 2:00 PM EST either in person or via VTC (call-in instructions to be provided). Defendant to appear in person. The Court further ORDERS the United States to prepare to explain the delay in scheduling the Defendants appearance after his arrival to the District on or about January 31, 2022. Signed by Magistrate Judge Zia M. Faruqui on 3/5/2022. (ztl) [1:21-mj-00686-RMM-ZMF] (Entered: 03/07/2022)
03/06/2022		ORDER REFERRING CASE to a Magistrate Judge for preparation of a report and recommendation regarding defendant LUCAS DENNEY's <u>23</u> Emergency Motion to Dismiss Case. Signed by Chief Judge Beryl A. Howell on March 6, 2022. (lcbah4) [1:21-mj-00686-RMM-ZMF] (Entered: 03/06/2022)
03/07/2022		Minute Entry for proceedings held before Magistrate Judge Zia M. Faruqui: Status Hearing as to LUCAS DENNEY (2) held on 3/7/2022. Defendant present in Courtroom. Motion Hearing set for 3/22/2022 at 2:00 PM by Telephonic/VTC before Magistrate Judge Zia M. Faruqui. Bond Status of Defendant: Defendant Remain Held Without Bond; Court Reporter: FTR-Gold; FTR Time Frame: Ctrm 4 [2:10:32-3:02:05]; Defense Attorney: John Pierce; US Attorney: Jennifer Rozzoni. (ztl) [1:21-mj-00686-RMM-ZMF] (Entered: 03/08/2022)
03/07/2022	<u>25</u>	INDICTMENT as to LUCAS DENNEY (1) count(s) 1. (zltf) (Entered: 03/08/2022)
03/08/2022		MINUTE ORDER: Upon consideration of Mr. Denneys Motion for Release from Custody Under Federal Rule of Criminal Procedure 5.1 (ECF No. <u>16</u> ) (the Motion for Release) and counsels representations during the 3/7/2022 hearing regarding the Motion for Release and Defendants Emergency Motion to Dismiss the Complaint (ECF No. <u>23</u> ) (the Motion to Dismiss), the Court finds that the United States violated Rule 5.1 and 18 U.S.C. § 3060 by failing to provide Mr. Denney with a timely preliminary hearing after his initial appearance in the Western District of Texas. The Court was prepared to release Mr. Denney under 18 U.S.C. § 3060(d). However, when the Grand Jury returned an indictment against Mr. Denney on 3/7/2022, Mr. Denneys right to discharge [from custody] pursuant to § 3060 ceased. United States v. Smith, 22 Fed. Appx. 137, 138 (4th Cir. 2001); see also e.g., United States v. Vaughn, 492 F. Supp. 3d 336, 344 (D.N.J. 2020). Accordingly, the Court DENIES Mr. Denneys Motion for Release as MOOT. Mr. Denneys Motion to Dismiss remains pending before the Court. The Court hereby ORDERS the Government to respond to Mr. Denneys

		Motion to Dismiss no later than Monday, March 14, 2022, and counsel for Mr. Denney to file any reply no later than March 17, 2022. The Court will hold a hearing on the motion to dismiss on March 22, 2022 at 2:00 pm. SO ORDERED. Signed by Magistrate Judge Zia M. Faruqui, 3/8/2022. (ztl) (Entered: 03/10/2022)
03/09/2022		NOTICE OF HEARING as to LUCAS DENNEY: Arraignment/Status Conference set for 3/14/2022, at 3:30 PM, by video, before Judge Randolph D. Moss. (kt) (Entered: 03/09/2022)
03/14/2022	<u>27</u>	RESPONSE by USA as to LUCAS DENNEY re <u>23</u> Emergency MOTION for Release from Custody Emergency MOTION to Dismiss Case (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M)(Rozzoni, Jennifer) (Entered: 03/14/2022)
03/14/2022	<u>28</u>	NOTICE OF ATTORNEY APPEARANCE: William Lee Shipley, Jr appearing for LUCAS DENNEY (Shipley, William) (Entered: 03/14/2022)
03/14/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Video (Zoom) Status Conference as to LUCAS DENNEY held on 3/14/2022. Case called for an Arraignment but not held. Defendant consented to proceeding by video. Due Process Protections Act Order read into the record by the Court. Oral motion by Defendant to proceed today with an arraignment and enter a plea of guilty to the Indictment; HEARD and DENIED, for the reasons stated on the record. Counsel shall submit their respective guidelines calculations, including any criminal history, by 12:00 p.m. on Wednesday. An Arraignment/Plea is set for 3/17/2022, at 3:30 PM, in Courtroom 8, before Judge Randolph D. Moss. Bond Status of Defendant: Committed; Court Reporter: Jeff Hook; Defense Attorneys: John Pierce and William Shipley, Jr.; U.S. Attorneys: Jennifer Rozzoni and Benet Kearney. (kt) (Entered: 03/14/2022)
03/15/2022	<u>29</u>	SENTENCING MEMORANDUM by LUCAS DENNEY (Marshall, Ryan) (Entered: 03/15/2022)
03/15/2022	<u>30</u>	ERRATA by LUCAS DENNEY re: <u>29</u> SENTENCING MEMORANDUM (Shipley, William) Modified on 3/16/2022 (zlt). (Entered: 03/15/2022)
03/16/2022	<u>31</u>	NOTICE of Sentencing Guidelines Estimate by USA as to LUCAS DENNEY (Rozzoni, Jennifer) (Entered: 03/16/2022)
03/16/2022	<u>32</u>	WITHDRAWAL of Motion by LUCAS DENNEY re <u>23</u> Emergency MOTION for Release from Custody Emergency MOTION to Dismiss Case filed by LUCAS DENNEY (Shipley, William) (Entered: 03/16/2022)
03/17/2022	<u>33</u>	NOTICE of Information in Preparation for March 17, 2022 Plea Hearing by USA as to LUCAS DENNEY (Rozzoni, Jennifer) (Entered: 03/17/2022)
03/17/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Hybrid Arraignment/Plea Hearing as to LUCAS DENNEY held on 3/17/2022. Defendant consented to a hybrid proceeding, with everyone appearing in person but one of his attorneys and Government counsel appearing by video (Zoom). Defendant arraigned. Plea of Guilty entered by LUCAS DENNEY as to Count 1 of the Indictment (no signed Plea Agreement or Statement of Facts/Proffer filed). REFERRAL TO PROBATION OFFICE for Presentence Investigation



		Report. Sentencing is set for 6/9/2022, at 2:00 PM, in Courtroom 8, before Judge Randolph D. Moss. Government's Sentencing Memorandum due by 5/26/2022; Defendant's Sentencing Memorandum due by 6/2/2022. Bond Status of Defendant: Committed; Court Reporter: Jeff Hook; Defense Attorneys: John Pierce, and William Shipley, Jr. (by video); U.S. Attorneys: Jennifer Rozzoni (by video), and Benet Kearney (by video), with Mary Dohrmann as standby for U.S. Attorney's Office. (kt) Modified on 3/17/2022 to include case referral to probation language (kt). (Entered: 03/17/2022)
03/17/2022	<u>34</u>	WAIVER of Trial by Jury as to LUCAS DENNEY. Approved by Judge Randolph D. Moss on 3/17/2022. (kt) (Entered: 03/17/2022)
03/20/2022		MINUTE ORDER as to LUCAS DENNEY (1). Considering Mr. Denney withdrew his Emergency Motion for Release from Custody and Emergency Motion to Dismiss Case <u>32</u> withdrawing ECF No. <u>23</u> , the Court hereby VACATES the scheduled hearing on the motion set for 3/22/2022 at 2:00 p.m. SO ORDERED. Signed by Magistrate Judge Zia M. Faruqui on 3/20/2022. (zpt) (Entered: 03/21/2022)
03/21/2022	<u>35</u>	Unopposed MOTION for Protective Order by USA as to LUCAS DENNEY. (Attachments: # <u>1</u> Text of Proposed Order Proposed Protective Order)(Kearney, Benet) (Entered: 03/21/2022)
03/22/2022	<u>36</u>	PROTECTIVE ORDER to LUCAS DENNEY: Upon consideration of the unopposed motion for protective order, Dkt. <u>53</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the parties shall comply with the directives in the attached Protective Order. See document for details. Signed by Judge Randolph D. Moss on 03/21/2022. (lcrdm3) Modified on 3/22/2022 to correct signature date in entry (kt). (Entered: 03/22/2022)
04/05/2022	<u>37</u>	NOTICE of Related Cases by USA as to LUCAS DENNEY (Kearney, Benet) (Entered: 04/05/2022)
04/08/2022	<u>38</u>	<p>TRANSCRIPT OF AUDIO-RECORDED STATUS HEARING PROCEEDINGS in case as to LUCAS DENNEY before Magistrate Judge Zia M. Faruqui held on March 7, 2022; Page Numbers: 1-58. Date of Issuance: April 8, 2022. Court Reporter/Transcriber: William Zaremba; Telephone number: (202) 354-3249. Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, PDF or ASCII) may be purchased from the court reporter.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a>.</p>

		Redaction Request due 4/29/2022. Redacted Transcript Deadline set for 5/9/2022. Release of Transcript Restriction set for 7/7/2022.(wz) (Entered: 04/08/2022)
04/28/2022	<u>39</u>	Notice of Withdrawal of Appearance by John Pierce. by LUCAS DENNEY. (Pierce, John) Modified text on 4/29/2022 (zltf). (Entered: 04/28/2022)
05/07/2022	<u>41</u>	Joint MOTION to Continue <i>Sentencing</i> by LUCAS DENNEY. (Shiple, William) (Entered: 05/07/2022)
05/09/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the joint motion to continue, Dkt. <u>41</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that (1) the sentencing hearing scheduled in this matter for June 9, 2022, at 2:00 p.m., is hereby VACATED and RESCHEDULED for July 21, 2022, at 1:00 p.m., in Courtroom 8; (2) the government shall file its sentencing memorandum on or before July 7, 2022; and (3) Defendant shall file his sentencing memorandum on or before July 14, 2022. Signed by Judge Randolph D. Moss on 05/09/2022. (lcrdm3) (Entered: 05/09/2022)
05/11/2022	<u>42</u>	MOTION for Release from Custody <i>Pending Sentencing</i> by LUCAS DENNEY. (Shiple, William) (Entered: 05/11/2022)
05/12/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of Defendant's motion for release from custody, Dkt. <u>42</u> , it is hereby ORDERED that the government shall file a response by 5 p.m. ET on May 17, 2022. Signed by Judge Randolph D. Moss on 05/12/2022. (lcrdm3) (Entered: 05/12/2022)
05/17/2022	<u>43</u>	RESPONSE by USA as to LUCAS DENNEY re <u>42</u> MOTION for Release from Custody <i>Pending Sentencing</i> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Rozzoni, Jennifer) (Entered: 05/17/2022)
05/17/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the government's response to the Defendant's motion, Dkt. <u>43</u> , it is hereby ORDERED that Defendant shall file his reply, if any, on or before May 20, 2022. Signed by Judge Randolph D. Moss on 05/17/2022. (lcrdm3) (Entered: 05/17/2022)
05/20/2022	<u>44</u>	REPLY TO OPPOSITION to Motion by LUCAS DENNEY re <u>42</u> MOTION for Release from Custody <i>Pending Sentencing</i> (Shiple, William) (Entered: 05/20/2022)
06/01/2022	<u>45</u>	ORDER as to LUCAS DENNEY: For the reasons giving in the attached Order, Defendant's motion for release from custody pending sentencing, Dkt. <u>42</u> , is DENIED. See document for details. Signed by Judge Randolph D. Moss on 06/01/2022. (lcrdm3) (Entered: 06/01/2022)
07/07/2022	<u>46</u>	SENTENCING MEMORANDUM by USA as to LUCAS DENNEY (Rozzoni, Jennifer) (Entered: 07/07/2022)
07/14/2022	<u>49</u>	NOTICE of Filing of Exhibits Pursuant to Local Criminal Rule 49 by USA as to LUCAS DENNEY re <u>46</u> Sentencing Memorandum (Kearney, Benet) (Entered: 07/14/2022)
07/14/2022	<u>50</u>	SENTENCING MEMORANDUM by LUCAS DENNEY (Attachments: # <u>1</u> Affidavit Of Lucas Denney)(Shiple, William) (Entered: 07/14/2022)



07/15/2022	<u>51</u>	MOTION for Leave to File <i>Document Under Seal</i> by USA as to LUCAS DENNEY. (Attachments: # <u>1</u> Exhibit Exhibit 8 (redacted))(Kearney, Benet) (Entered: 07/15/2022)
07/18/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the government's motion for leave to file document under seal, Dkt. <u>51</u> , it is hereby ORDERED that the motion is GRANTED. The unredacted document shall be filed under seal, and the redacted version shall be filed on the public docket. Signed by Judge Randolph D. Moss on 07/18/2022. (lcrdm3) (Entered: 07/18/2022)
07/21/2022	<u>52</u>	SUPPLEMENT by LUCAS DENNEY re: <u>50</u> SENTENCING MEMORANDUM (Shiple, William) Modified text to include linkage on 7/21/2022 (zltf). (Entered: 07/21/2022)
07/21/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Sentencing (Evidentiary) Hearing as to LUCAS DENNEY held on 7/21/2022. Sentencing begun and continued to a date to be determined. For the reasons stated on the record, the parties shall file a Joint Status Report by 7/29/2022, which shall propose a schedule for further briefing and a date for final sentencing, after conferring with the Courtroom Deputy Clerk to find a date that is best for the Court and the parties. Bond Status of Defendant: Committed/Commitment Issued; Court Reporter: Jeff Hook; Defense Attorney: William Shipley, Jr.; U.S. Attorneys: Benet Kearney and Jennifer Rozzoni; Government Witnesses: Michael Fanone, Sgt. "KK", and John Harrington. (kt) (Entered: 07/21/2022)
07/26/2022	<u>55</u>	<p>TRANSCRIPT OF HYBRID ARRAIGNMENT/PLEA HEARING in case as to LUCAS DENNEY before Judge Randolph D. Moss held on March 17, 2022. Page Numbers: 1 – 50. Date of Issuance: July 26, 2022. Court Reporter: Jeff Hook. Telephone number: 202–354–3373. Transcripts may be ordered by submitting the <a href="#">Transcript Order Form</a></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchase d from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a>.</p> <p>Redaction Request due 8/16/2022. Redacted Transcript Deadline set for 8/26/2022. Release of Transcript Restriction set for 10/24/2022.(Hook, Jeff) (Entered: 07/26/2022)</p>
07/29/2022	<u>56</u>	Joint STATUS REPORT by USA as to LUCAS DENNEY (Rozzoni, Jennifer) (Entered: 07/29/2022)
07/29/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the parties' joint status report, Dkt. <u>56</u> , it is hereby ORDERED that the parties shall file any

		joint statement of offense on or before August 19, 2022. It is further ORDERED, as to the applicability of the 4-point enhancement pursuant to U.S.S.G. 2A2.2(b)(2)(B), that: (1) the Government shall file its brief on or before September 2, 2022; (2) the defense shall file its response on or before September 9, 2022; and (3) the Government shall file any reply on or before September 14, 2022. It is further ORDERED that the parties shall appear for a sentencing hearing on September 28, 2022, at 2:00 p.m., in Courtroom 8. Signed by Judge Randolph D. Moss on 07/29/2022. (lcrdm3) (Entered: 07/29/2022)
08/01/2022	<u>57</u>	<p>TRANSCRIPT OF SENTENCING HEARING in case as to LUCAS DENNEY before Judge Randolph D. Moss held on July 21, 2022. Page Numbers: 1 – 49. Date of Issuance: August 1, 2022. Court Reporter: Jeff Hook. Telephone number: 202-354-3373. Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a>.</p> <p>Redaction Request due 8/22/2022. Redacted Transcript Deadline set for 9/1/2022. Release of Transcript Restriction set for 10/30/2022.(Hook, Jeff) (Entered: 08/01/2022)</p>
08/08/2022	<u>58</u>	Unopposed MOTION for Order Authorizing Early Return of Hearing Subpoenas Pursuant to Rule 17(c) by USA as to LUCAS DENNEY. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Text of Proposed Order)(Kearney, Benet) (Entered: 08/08/2022)
08/08/2022	<u>59</u>	<p>ORDER: For the reasons stated in the accompanying Order, it is hereby ORDERED that the government's unopposed Motion for Early Return of Hearing Subpoenas, Dkt. 58, is GRANTED. It is further ORDERED that: (1) WebBank comply with Trial Subpoena No. TR2022080393349 by producing records as described in Attachment A to that subpoena; (2) WebBank may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before August 23, 2022; (3) Credit One Bank, N.A. comply with Trial Subpoena No. TR2022080393350 by producing records as described in Attachment A to that subpoena; (4) Credit One may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before August 23, 2022; (5) the United States shall produce any subpoena results received promptly to Mr. Denney through the discovery process; and (6) the United States may grant either of the entities subpoenaed any requested necessary extensions of time to comply with the subpoenas. See document for details. Signed by Judge Randolph D. Moss on 08/08/2022.</p>

		(lcrdm3) (Entered: 08/08/2022)
08/19/2022	<u>60</u>	NOTICE of Filing Joint Statement of Offense by USA as to LUCAS DENNEY (Attachments: # <u>1</u> Joint Statement of Offense)(Kearney, Benet) (Entered: 08/19/2022)
09/01/2022	<u>61</u>	Unopposed MOTION for Order Authorizing Early Return of Hearing Subpoenas Pursuant to Rule 17(c) by USA as to LUCAS DENNEY. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Text of Proposed Order)(Kearney, Benet) (Entered: 09/01/2022)
09/01/2022	<u>62</u>	ORDER: For the reasons stated in the accompanying Order, it is hereby ORDERED that the government's unopposed Motion for Early Return of Hearing Subpoenas, Dkt. <u>61</u> , is GRANTED. It is further ORDERED that: (1) Capitol One Bank comply with Trial Subpoena No. TR2022083194304 by producing records as described in Attachment A to that subpoena; (2) Capitol One may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 19, 2022; (3) Synchrony Financial Bank comply with Trial Subpoena No. TR2022083194305 by producing records as described in Attachment A to that subpoena; (4) Synchrony may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 19, 2022; (6) PayPal Holdings, Inc. comply with Trial Subpoena No. TR2022083194306 by producing records as described in Attachment A to that subpoena; (7) PayPal may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 19, 2022; (8) Forth Worth Community Credit Union ("FWCCU") comply with Trial Subpoena No. TR2022083194307 by producing records as described in Attachment A to that subpoena; and (9) FWCCU may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 19, 2022. It is further ORDERED that (1) the United States shall produce any subpoena results received promptly to Mr. Denney through the discovery process; and (2) the United States may grant any of the entities subpoenaed any requested necessary extensions of time to comply with the subpoenas. See document for details. Signed by Judge Randolph D. Moss on 09/01/2022. (lcrdm3) (Entered: 09/01/2022)
09/02/2022	<u>63</u>	Memorandum in Support of Application of for Sentencing Guidelines <i>Section 2A2.2(b)(2)(B) to be applied</i> by USA as to LUCAS DENNEY. (Kearney, Benet) Modified text on 10/4/2022 (zltp). (Entered: 09/02/2022)
09/09/2022	<u>64</u>	Supplemental Sentencing Statement by LUCAS DENNEY. (Shipley, William) Modified text on 10/4/2022 (zltp). (Entered: 09/09/2022)
09/21/2022	<u>65</u>	MOTION for Order Authorizing Early Return of Hearing Subpoenas Pursuant to Rule 17(c) by USA as to LUCAS DENNEY. (Attachments: # <u>1</u> Exhibit Ex. A, # <u>2</u> Exhibit Ex. B, # <u>3</u> Exhibit Ex. C, # <u>4</u> Text of Proposed Order)(Kearney, Benet) (Entered: 09/21/2022)
09/21/2022	<u>66</u>	ORDER as to LUCAS DENNEY: For the reasons stated in the accompanying Order, it is hereby ORDERED that the government's unopposed Motion for Early Return of Hearing Subpoenas, Dkt. <u>65</u> , is GRANTED. It is further

		ORDERED that: (1) Kohls Credit Card comply with Trial Subpoena No. TR2022092195002 by producing records as described in Attachment A to that subpoena; (2) Kohls may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 26, 2022; (3) Chase Bank USA, N.A. ("Chase") comply with Trial Subpoena No. TR2022092195003 by producing records as described in Attachment A to that subpoena; (4) Chase may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 26, 2022; (6) Sutton Bank comply with Trial Subpoena No. TR2022092195004 by producing records as described in Attachment A to that subpoena; and (7) Sutton may, in lieu of appearing in court with the requested records, provide them directly to the U.S. Attorney's Office for the District of Columbia on or before September 26, 2022. It is further ORDERED that (1) the United States shall produce any subpoena results received promptly to Mr. Denney through the discovery process; and (2) the United States may grant any of the entities subpoenaed any requested necessary extensions of time to comply with the subpoenas. See document for details. Signed by Judge Randolph D. Moss on 09/21/2022. (lcrdm3) (Entered: 09/21/2022)
09/21/2022	<u>67</u>	SENTENCING MEMORANDUM by USA as to LUCAS DENNEY (Attachments: # <u>1</u> Exhibit Ex. A, # <u>2</u> Exhibit Ex. 26)(Kearney, Benet) (Entered: 09/21/2022)
09/22/2022	<u>68</u>	NOTICE of Filing of Exhibits Pursuant to Local Criminal Rule 49 by USA as to LUCAS DENNEY re <u>67</u> Sentencing Memorandum (Kearney, Benet) (Entered: 09/22/2022)
09/27/2022	<u>69</u>	STATUS REPORT by USA as to LUCAS DENNEY (Rozzoni, Jennifer) (Entered: 09/27/2022)
09/28/2022		Minute Entry for proceedings held before Judge Randolph D. Moss: Sentencing held on 9/28/2022 as to LUCAS DENNEY. Count 1: Defendant Sentenced to Fifty-Two (52) Months of Incarceration; Followed by Thirty-Six (36) Months of Supervised Release. A \$100.00 Special Assessment is imposed. Restitution amount to be determined; A separate order will issue. The Government shall file their restitution proposal by 10/4/2022; Defendant shall file his restitution proposal by 10/6/2022, as well as any Bureau of Prisons program recommendations. The Court will suspend issuance of the Judgment & Commitment until receipt of the aforementioned filings. Bond Status of Defendant: Committed/Commitment Issued; Court Reporter: Jeff Hook; Defense Attorney: William Shipley, Jr.; U.S. Attorneys: Benet Kearney and Jennifer Rozzoni; Probation Officer: Hana Field (stand-in for Sherry Baker). (kt) (Entered: 09/28/2022)
10/04/2022	<u>70</u>	NOTICE of Restitution by USA as to LUCAS DENNEY (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Rozzoni, Jennifer) (Entered: 10/04/2022)
10/07/2022	<u>71</u>	RESPONSE by LUCAS DENNEY re: <u>70</u> Notice of Restitution (Shipley, William) Modified text to include link on 10/11/2022 (zltf). (Entered: 10/07/2022)
10/07/2022		MINUTE ORDER as to LUCAS DENNEY: The government has requested that this Court order restitution in the amount of \$5,601.94, made payable to the

		Metropolitan Police Department, for Officer K.K.'s medical bills and sick leave. Dkt. 70. Mr. Denney responds that his offense "did not result in any bodily injury to Officer K.K." and argues that Mr. Denney does not have the financial resources to pay restitution. Dkt. 71 at 2. In light of this disagreement between the parties, the government is hereby ORDERED to file a reply on or before October 11, 2022, addressing (1) direct and proximate causation under 18 U.S.C. 3663A(a)(2); and (2) whether the Court should apportion liability "among... defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant," pursuant to 18 U.S.C. 3664. Signed by Judge Randolph D. Moss on 10/7/2022. (lcrdm3) (Entered: 10/07/2022)
10/11/2022	<u>72</u>	REPLY by USA as to LUCAS DENNEY re <u>71</u> Response to document (Kearney, Benet) (Entered: 10/11/2022)
10/13/2022	<u>73</u>	Application for Access to Video Exhibits by PRESS COALITION as to LUCAS DENNEY. (zltpt) (Entered: 10/13/2022)
10/13/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the Application for Access to Video Exhibits, Dkt. <u>73</u> , the parties shall respond to the application on or before October 17, 2022, at 4:00 p.m. Signed by Judge Randolph D. Moss on 10/13/2022. (lcrdm3) (Entered: 10/13/2022)
10/14/2022		<p>MINUTE ORDER as to LUCAS DENNEY: The government has requested that this Court order restitution in the amount of \$5,601.94, made payable to the Metropolitan Police Department ("MPD"), for Sergeant K.K.'s medical bills and sick leave. Dkt. <u>70</u> . Although Mr. Denney likely contributed, along with many others, to the damage to the Capitol, the government has nowhere requested restitution to the Architect of the Capitol in this case, <i>see</i> Dkts. <u>70</u> , <u>72</u> ; <i>see also</i> Dkt. <u>46</u> at 73, and, without such a request by the relevant victim, the Court cannot award restitution to the Architect of the Capitol. This, then, leaves the government's request for restitution to the MPD for the specific losses that the government has identified.</p> <p>18 U.S.C. § 3663A provides that, for a defendant convicted of "a crime of violence," <i>id.</i> § 3663A(c)(1)(A)(i), "the court shall order... that the defendant make restitution to the victim of the offense," <i>id.</i> § 3663A(a)(1), including for the cost of necessary "physical, psychiatric, and psychological care," <i>id.</i> § 3663A(b)(2)(A). A "victim" is "a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered." <i>Id.</i> § 3663A(a)(2). The Court has now provided the government at least two opportunities to establish that Sergeant K.K.'s medical bills and sick leave were "directly and proximately" caused by Denney's assault with a dangerous weapon — i.e., that there is "some direct relation between the injury asserted and the injurious conduct alleged," <i>Paroline v. United States</i>, 472 U.S. 434, 444 (2014). <i>See</i> Dkts. <u>70</u> , <u>72</u> . But the government has not, to date, shown that any of the costs the MPD accrued were attributable in whole or in part to Denney's assault with a dangerous weapon, as opposed to the physical injuries and burns Sergeant K.K. described suffering after being "sprayed with bear spray" and "unknown chemicals in the face." Rough Tr. at 28 (July 21, 2022 Hearing). At most, the government offers the conclusory assertion that, "[a]s a result of his encounters with Denney and others, Sgt. K.K. sought medical care and sick leave after January 6th" and that "Denney contributed directly and proximately to Sergeant K.K.'s need for medical care and time off." Dkt. <u>72</u> at 3. That may be true, but</p>



		<p>the government nowhere draws an evidentiary connection between Denney's actions on January 6, 2021 and any specific physical or psychological injuries for which Sergeant K.K. sought medical care and time off. The government does not assert, for example, that Denney succeeded in inflicting any physical harm on Sergeant K.K., nor does it indicate whether Sergeant K.K. incurred any medical expenses or took leave due to the emotional trauma that Denney and others inflicted on him that day. Although the Court does not, by any means, doubt the gravity of Sergeant K.K.'s injuries or the seriousness of Denney's criminal conduct, the government's conclusory assertions are insufficient to establish the direct and proximate causation required under 18 U.S.C. § 3663A(a).</p> <p>The Court will, accordingly, deny the government's request for restitution, without prejudice, under the unique circumstances presented here. Signed by Judge Randolph D. Moss on 10/14/2022. (lcrdm3) (Entered: 10/14/2022)</p>
10/14/2022	<u>75</u>	JUDGMENT as to LUCAS DENNEY. Statement of Reasons Not Included. Signed by Judge Randolph D. Moss on 10/14/2022. (zltpt) (Entered: 10/24/2022)
10/14/2022	<u>76</u>	STATEMENT OF REASONS as to LUCAS DENNEY. re <u>75</u> Judgment Access to the PDF Document is restricted per Judicial Conference Policy. Access is limited to Counsel of Record and the Court. Signed by Judge Randolph D. Moss on 10/14/2022. (zltpt) (Entered: 10/24/2022)
10/17/2022	<u>74</u>	RESPONSE by USA as to LUCAS DENNEY re <u>73</u> MOTION to Access (Kearney, Benet) (Entered: 10/17/2022)
10/18/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the Press Coalition's application for access to video exhibits, Dkt. <u>73</u> , and in light of the fact that neither party objects to the application, it is hereby ORDERED that the Press Coalition's motion is granted. It is further ORDERED that, consistent with Standing Order 21–28, the government shall make available the video recordings that were submitted to the Court in aid of Mr. Denney's sentencing to members of the media with the necessary access credentials by way of an electronic drop–box. Signed by Judge Randolph D. Moss on 10/18/2022. (lcrdm3) (Entered: 10/18/2022)
10/31/2022	<u>77</u>	NOTICE OF APPEAL – Final Judgment by LUCAS DENNEY Fee Status: No Fee Paid. Parties have been notified. (Shipley, William) (Entered: 10/31/2022)
11/02/2022	<u>78</u>	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The fee remains to be paid and another notice will be transmitted when the fee has been paid in the District Court or motion to proceed In Forma Pauperis has been decided as to LUCAS DENNEY re <u>77</u> Notice of Appeal – Final Judgment. (zltpt) (Entered: 11/02/2022)
11/04/2022		USCA Case Number as to LUCAS DENNEY 22–3084 for <u>77</u> Notice of Appeal – Final Judgment filed by LUCAS DENNEY. (zstd) (Entered: 11/04/2022)
12/11/2022	<u>79</u>	MOTION for Order TO PROCEED IN FORMA PAUPERIS by LUCAS DENNEY. (Shipley, William) (Entered: 12/11/2022)
12/14/2022		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of the Defendant's motion to proceed in forma pauperis, Dkt. <u>79</u> , it is hereby ORDERED that counsel shall continue to make contact with Defendant and



		shall file with the Court a completed copy of Form 4. Signed by Judge Randolph D. Moss on 12/14/2022. (lcrdm3) (Entered: 12/14/2022)
01/09/2023	<u>80</u>	DECLARATION <i>IN SUPPORT TO PERMISSION TO APPEAL IN FORMA PAUPERIS</i> by LUCAS DENNEY re: <u>79</u> Motion for Order to Proceed in Forma Pauperis (Shiple, William) Modified text to include link on 1/10/2023 (zltf). (Entered: 01/09/2023)
01/10/2023		MINUTE ORDER as to LUCAS DENNEY: Upon consideration of Defendant's motion to appeal in forma pauperis, Dkt. <u>79</u> , it is hereby ORDERED that the motion is GRANTED. The Clerk of Court is hereby directed to transmit this order promptly to the Court of Appeals. Signed by Judge Randolph D. Moss on 1/10/2023. (lcrdm3) (Entered: 01/10/2023)

MIME-Version:1.0

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To:DCD\_ECFNotice@localhost.localdomain

Bcc:

--Case Participants: Benet Kearney (benet.kearney@usdoj.gov), Maxwell S. Mishkin (litdocket\_east@ballardspahr.com, mishkinm@ballardspahr.com), Jennifer M Rozzoni (carissa.moss@usdoj.gov, jennifer.m.rozzoni@usdoj.gov), Lauren Russell (russelll@ballardspahr.com), William Lee Shipley, Jr (808shipleylaw@gmail.com, kdn@january6defensefund.org, ryan9374@gmail.com), Charles D. Tobin (litdocket\_east@ballardspahr.com, mendezc@ballardspahr.com, mishkinm@ballardspahr.com, tobinc@ballardspahr.com), Judge Randolph D. Moss (dorothy\_patterson@dcd.uscourts.gov, kristin\_thompson@dcd.uscourts.gov, matthew\_morris@dcd.uscourts.gov, molly\_runkle@dcd.uscourts.gov, norah\_rast@dcd.uscourts.gov, rdm\_dcdecf@dcd.uscourts.gov)  
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--No Notice Sent:

Message-Id:8105365@dcd.uscourts.gov

Subject:Activity in Case 1:22-cr-00070-RDM USA v. DENNEY Order on Motion for Order  
Content-Type: text/html

**U.S. District Court**

**District of Columbia**

**Notice of Electronic Filing**

The following transaction was entered on 1/10/2023 at 7:18 PM EDT and filed on 1/10/2023

**Case Name:** USA v. DENNEY

**Case Number:** 1:22-cr-00070-RDM

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**MINUTE ORDER as to LUCAS DENNEY: Upon consideration of Defendant's motion to appeal in forma pauperis, Dkt. [79], it is hereby ORDERED that the motion is GRANTED. The Clerk of Court is hereby directed to transmit this order promptly to the Court of Appeals. Signed by Judge Randolph D. Moss on 1/10/2023. (lcrdm3)**

**1:22-cr-00070-RDM-1 Notice has been electronically mailed to:**

Charles D. Tobin tobinc@ballardspahr.com, LitDocket\_East@ballardspahr.com, mendezc@ballardspahr.com, mishkinm@ballardspahr.com

Maxwell S. Mishkin mishkinm@ballardspahr.com, LitDocket\_East@ballardspahr.com

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ryan9374@gmail.com

**1:22-cr-00070-RDM-1 Notice will be delivered by other means to::**

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

**UNITED STATES OF AMERICA**

**v.**

**LUCAS DENNEY**

**Defendant**

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**Case No. 22-cr-00070**

**DEFENDANT LUCAS DENNEY'S MOTION TO PROCEED  
IN FORMA PAUPERIS**

William L. Shipley, Jr., Esq.  
PO Box 745  
Kailua, Hawaii 96734  
Tel: (808) 228-1341  
Email: 808Shipleylaw@gmail.com

*Attorney for Defendant*

NOW comes Defendant Lucas Denney, by and through his undersigned counsel of record William L. Shipley, and files this Motion to Proceed In Forma Pauperis.

Pursuant to Rule 24 of the Federal Rules of Appellant Procedure, Defendant Lucas Denney files this motion to proceed in forma pauperis on his appeal from the judgment entered by this Court on October 14, 2022.

Since filing the Notice of Appeal on October 31, 2022 undersigned counsel has made several attempts to ensure Defendant Denney was in possession of Form 4 of the Appendix of Forms to show Defendant Denney's inability to pay; however, Defendant Denney was then transferred from Northern Neck Regional Jail to FCI Florence. Since such transport, undersigned counsel has yet to make contact.

However, previously, a report regarding Defendant Denney's financial status has been presented to the Court in the presentencing report. Based on such information, this Court decided Defendant Denney did not have the financial means to pay a fine. Defendant Denney's financial status has not changed. *See* EFC. No. 76.

Should this Court require, undersigned will continue to make contact and supply Defendant Denney with a copy of Form 4 and will file the completed form with the Court.

This Court sentenced Defendant Denney to 52-months of imprisonment applying 4-point enhancement under U.S.S.G. § 2A2.2(b)(2)(B) and a 2-point enhancement under U.S.S.G. § 2A2.2(b)(1). Defendant Denney still takes the

same position as he did during sentencing—the 4-point and 2-point enhancements do not apply. Thus, Defendant Denney wishes to raise those issues on appeal.

Dated: December 11, 2022

Respectfully submitted,

/s/ William L. Shipley  
William L. Shipley, Jr., Esq.  
PO BOX 745  
Kailua, Hawaii 96734  
Tel: (808) 228-1341  
Email: 808Shipleylaw@gmail.com

*Attorney for Defendant*