

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

<b>UNITED STATES OF AMERICA</b>	:	
	:	<b>CASE NO. 21-CR-140-JDB</b>
<b>v.</b>	:	
	:	
<b>LARRY BROCK,</b>	:	
	:	
<b>Defendant.</b>	:	

**UNITED STATES’ SUPPLEMENTAL OPPOSITION TO DEFENDANT’S  
RENEWED MOTION FOR RELEASE PENDING APPEAL**

The United States of America respectfully supplements its opposition to Defendant Larry Brock’s Renewed Motion for Release Pending Appeal (ECF 117). Brock has engaged in disruptive behavior, including usurping Bureau of Prison (BOP) rules to post calls to action for other January 6 defendants from Brock’s social media pages, while serving his sentence imposed by this Court. Brock’s motion should be denied.

**ARGUMENT**

**I. Applicable Legal Principles**

Under 18 U.S.C. § 3143(b), a defendant who has been sentenced to a term of imprisonment “shall . . . be detained” unless the defendant meets a two-part test:

1. “clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released,” and
2. that the appeal “is not for the purpose of delay and raises a substantial question of fact or law likely to result in—(i) reversal, (ii) an order for a new trial, (iii) a sentence that does not include a term of imprisonment, or (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.”

18 U.S.C. § 3143(b)(1)(A)-(B); *see also United States v. Perholtz*, 836 F.2d 554, 557 (D.C. Cir. 1988) (“[T]he provision requires a two-part inquiry: (1) Does the appeal raise a substantial

question? (2) If so, would the resolution of that question in the defendant’s favor be likely to lead to reversal?”).

If the Court finds that a defendant is eligible for release because the appeal is “likely” to result in “a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process,” the remedy is not immediate release; rather, “the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence.” 18 U.S.C. § 3143(b)(1)(B). The defendant bears the burden to make the required showing under § 3143(b)(1). *Perholtz*, 836 F.2d at 555-56 (referring to “the required showing on the part of the defendant”); *United States v. Libby*, 498 F. Supp. 2d 1, 3 (D.D.C. 2007).

In considering whether a defendant’s appeal of his sentence for violating 18 U.S.C. § 1512(c)(2) would likely result in a reduced sentence, Judge Friedrich explained that an upward variance would be needed post-*Brock*:

“Following *Brock* obstructive conduct is subject to a potential 11-point Guidelines swing depending on whether it interfered with, on one hand, a ‘judicial, quasi-judicial, and adjunct investigative proceedings,’ or on the other hand, any other type of formal proceeding. [citation omitted]. This disparity—though tracking the Guidelines’ text—does not reflect the importance and solemnity of the Congressional proceeding to certify the electoral vote count, nor does it reflect the gravity of [Defendant’s] obstructive conduct.”

*United States v. Reffitt*, No. 21-cr-32 (DLF), ECF No. 182 at 10 (D.D.C. Apr. 10, 2024). Similarly, in *Fonticoba*, Judge Kelly cited the above *Reffitt* language, agreeing with it and holding that even if *Brock* had been decided before *Fonticoba* was sentenced, the Court still would have varied upward due to the nature of the conduct on January 6. *United States v. Fonticoba*, No. 21-cr-638 (TJK), ECF No. 81 at 4-5 (D.D.C. Apr. 11, 2024).

## **II. Brock’s Social Media Posts Show a Continuing Danger to the Community**

Brock would continue to pose a danger to the community if released from BOP. Brock has engaged in disorderly and disruptive conduct while incarcerated, and by instructing other people

to publicly engage and direct other January 6 inmates. On July 21, 2023, Brock contacted an individual who runs the defendant's X account and instructed him to post to Brock's public account:

“To my fellow patriots and political prisoners,

As you endure this ignominious captivity, ‘there will be days when you will feel [your] life going by, leaving a trail of nothing...that this is a pointless skirmish in a bad war, absolutely meaningless in the big picture.’ Do not think this way. Lift up your fellow patriots. Build their morale. Keep Isaiah 41:10 in your heart.

This two-tiered and corrupt DoJ will ask you to make oral or written statements disloyal to President Trump. Do not do this. The North Vietnamese asked for the same thing and were resisted by better men than all of us, men who endured horrific torture and prolonged captivity. Just as those men were called criminals by a Democratic regime in Vietnam, so are we called criminals by the Democratic regime in America. Whether you wanted to be or not, as a political prisoner of the selected President's government, you are now an American fighting man and should consider yourself bound by the Code of Conduct. If you do not the Code of Conduct, learn it from your fellow military patriot. This is a fight for the soul of our Country, for free and fair elections and the rule of law.

Keep the faith, return with honor to your beloved homes and family, and trust in God and the United States of America. More to come shortly.

God bless you, God bless President Trump, and God bless America,

LTC Larry Brock  
Political Prisoner  
Springfield Gulag”<sup>1</sup>

Gov't Ex. 1 (attached)

Similarly, on July 24, 2023, Brock instructed his social media manager to post the following:

“To my fellow political prisoners,

In light of the two-tiered system of justice and the state of absolute tyranny we find ourselves living in under the Biden Regime, and in obedience of the Code of Conduct, I announce the formation of the 5th Allied Political Prisoner of War (PPOW) Wing. The goals are simple:

1. To end the political imprisonment of American citizens.
2. To return to our communities with honor.

Until such time as relieved by Colonel Rhodes or other senior officer, as acting senior ranking officer (SRO), I send the following guidance, “plums” if you will:

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<sup>1</sup> This post has since been deleted from Brock's Twitter page

1. Establish a chain of command in your gulag and ensure accountability of all J6 political prisoners.
2. Maintain the morale and cohesion of all patriots held in political captivity within your gulag, and use this stolen time to educate yourself to the max extent possible.
3. Adhere to the Code of Conduct, do not break faith with your fellow patriots or make statements disloyal to President Trump.
4. Keep your heads up, you are not criminals. Follow the rules of the Commandant of the gulag you are unjustly imprisoned in.
5. Trust in God and the American people to deliver you from the actions of this illegitimate administration and its weaponized justice system.

Further, I ask that the International Red Cross be given access to all patriots being held as political prisoners as I am aware of at least one prisoner being physically assaulted multiple times and numerous American patriots being held in solitary confinement for prolonged periods of time by Biden Regime guards. Additionally, I ask Amnesty International to demand the Biden Regime release all political prisoners currently held by the United States.

Submitted in respect to the judgement of the American people,

LTC Larry Brock  
Political Prisoner  
Springfield Gulag<sup>2</sup>

Gov't Ex. 2 (attached).

Brock instructed other inmates to adhere to the military code of conduct, and instructed his social media manager to make the post available as a “morale boost” for fellow J6 inmates. Gov't Ex. 3 at 2 (attached). Brock told BOP personnel he identified as the Senior Ranking Officer of the 5th Allied PPOW wing, and that he did not necessarily want to be the leader of the group, but had to take the leadership role because “one of the articles of the military code of conduct requires it.” *Id.* Brock further stated that “until such time as a more senior member of the J6 group relieves him of his command he will remain in a leadership role.” *Id.* Brock further told BOP personnel that the intent behind this post was to get other January 6 inmates to follow the military code of conduct,

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<sup>2</sup> This post has since been deleted from Brock's Twitter page.

and that January 6 inmates were political prisoners who should follow the code of conduct. *Id.* When asked about the article in the military code of conduct directing prisoners to escape, Brock stated, “I guess I should have specifically said do not attempt escape.” *Id.*

At Brock’s sentencing, this Court reviewed the social media posts of Brock and noted, “this kind of conduct that is contemplated and communicated in those detailed, repetitive posts; it’s really pretty astounding coming from a former high ranking military officer. It’s detailed. It’s persistent. It’s consistent. And it’s both astounding and atrocious.” Sent’g Tr. at 73. Brock has not only continued the behavior that this Court was astounded by, he has escalated that behavior. No longer is Brock sharing private messages with friends about military conduct, Brock is now instructing fellow inmates publicly that they are *prisoners of war*. Brock has declared himself their senior ranking officer and commanded that they are bound by the military Code of Conduct. This conduct is even more astounding.

For the reasons set forth in the government’s earlier response to the motion for release, and because he continues to present a danger to the community, Brock has failed to meet his burden under 18 U.S.C. § 3143(b).

### **CONCLUSION**

WHEREFORE, the government respectfully requests that Brock’s motion be denied.

Respectfully submitted,

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*/s/ April Ayers-Perez*

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**Certificate of Service**

I HEREBY CERTIFY that I have caused a copy of the foregoing motion to be served by electronic means, through the Court's CM/ECF system, upon counsel for appellant on this 12th day of April, 2024.

*/s/ April Ayers-Perez*

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