

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

)	
UNITED STATES OF AMERICA,)	
)	
v.)	Case No. 1:21-cr-175
)	
ETHAN NORDEAN, et al.,)	Judge Timothy J. Kelly
)	
Defendants.)	
)	

**DEFENDANT NORDEAN’S NOTICE OF ADDITIONAL MATERIAL EVIDENCE THE
GOVERNMENT WITHHELD UNTIL AFTER DETENTION HEARINGS**

Defendant Nordean, through his counsel, provides this notice of additional evidence the government withheld from the defense and the Court until after the Court revoked his release order. LCrR 5.1(a).

As the Court knows, in the April 19 detention hearing the Court focused on the perceived risk that Nordean would engage in dangerous political rallying in the future. The Court found:

[T]hese defendants can produce events that draw large numbers of people, including Proud Boys, others sympathetic to Proud Boy perspectives . . . Even if the election has passed all of politics has not.

Hr’g Trans., 4/19/21, p. 55.

Although Nordean had presented a February audio recording of himself in a conversation with members of his group in which he rejected future political rallying, the Court found that “without any further context there’s no indication that that was some kind of permanent decision.” *Id.* at 55:22.

Attached to this notice is an FBI memorandum that reviews Nordean’s audio messages on the Telegram app. FD-302, 4/14/21, Exh. 1 (highlighting added by Nordean). Although it was produced to the defense over a month after the detention hearing, the memo predates the

April 19 detention hearing by a week. The memo shows that at the moment the Court found a determinative lack of “further context” regarding Nordean’s future plans concerning rallying, Hr’g Trans., 4/19/21, p. 55:22, the government possessed further context in the form of multiple additional statements from Nordean forswearing rallying. Exh. 1. The transcript of the detention hearing shows that the government remained silent after the Court made its finding about the lack of further context. Hr’g Trans., 4/19/21, p. 55.

Dated: June 15, 2021

Respectfully submitted,

/s/ David B. Smith

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Certificate of Service

I hereby certify that on the 15th day of June, 2021, I filed the foregoing notice with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

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And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

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