

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

UNITED STATES OF AMERICA)	
)	
v.)	No. 1:21-cr-28-12 (APM)
)	
JOSHUA JAMES,)	
)	
Defendant.)	

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S
MOTION FOR MODIFICATION OF CONDITIONS OF RELEASE**

The Court should deny Defendant James’s motion for modification of his conditions of release (ECF 346).

James conspired with nearly twenty other charged defendants and uncharged individuals to obstruct the United States Congress’s certification of the 2020 Presidential Election. To that end, he led a group of individuals into the Capitol building and assaulted law enforcement officers, referring to the Capitol as his “fucking building.” Immediately after January 6, he continued his efforts to stop the Election by amassing firearms, traveling to Texas in part to meet up with Person One, and disseminating information about the “Insurrection Act” to coconspirators. Further, to the extent James’s motion cites the need to earn income, *see* ECF 346 at 2, his family has raised nearly \$200,000 since his arrest via internet donations that continue to pour in as recently as today (August 24, 2021), to cover, in part, “family expenses.”

Although the Court previously left open the possibility of modifying James’s conditions, James’s conduct sets him apart from other defendants for whom the Court has granted similar requests, such as Defendants Crowl and Caldwell. James’s leadership before January 6, assaultive conduct on January 6, and continued actions toward overturning the election afterward all warrant restricting his movement to ensure the safety of the community.

A. *Leadership*

1. The Court is well familiar with the facts of this case and the arguments previously submitted by the government in contending that James should be detained pending trial, including that he coordinated with codefendants, held a leadership role in the January 6 operation, discussed an armed “quick reaction force” (QRF), and deleted certain communications, *see* ECF Nos. 146 and 147.

2. The ongoing investigation has revealed further evidence that James coordinated with other leaders in the conspiracy and himself led some of the codefendants up to and on January 6. The Fifth Superseding Indictment alleges that on December 31, 2020, for example, Defendants Kelly Meggs, Kenneth Harrelson, James Dolan, David Moerschel, Caleb Berry, and others participated in a GoToMeeting titled, “florida dc op planning chat.” (ECF 328 at ¶ 63). About thirty minutes later, James joined Defendants Kelly Meggs and Mark Grods and a third individual in a GoToMeeting titled, “SE leaders DC 1/6/21 op call.” (ECF 328 at ¶ 64). That day, James individually messaged the third individual in that GoToMeeting, “Do we have a farm location for weapons?” That individual responded, “Not that I am aware of yet. If nothing else, my hotel is in VA and has secured underground parking. About 15-20 minutes outside DC, less if you really don’t care about speed limits ... would be great if we had someone with an enclosed truck type vehicle and had a quick response unit just outside the city.” James replied: “I agree.” (ECF 328 at ¶ 65).

3. The next day, James disseminated information about the QRF and firearms to Defendant Ulrich and others. Defendant Ulrich asked James on Signal, for example, “Hey we told to bring guns and maybe stage them VA?? But you are showing hotels in DC for Alabama. Are we bringing guns or no if so how will that work?” James responded, “Were working on a Farm

location Some are bringing long rifles some sidearms ... I'm bringing sidearm.” (ECF 328 at ¶ 66). The investigation has further revealed that Defendant Grods, who rode with James from Alabama to Washington, D.C., brought a Mossberg shotgun and left it with James.

4. Around the same time, Defendant Walden also looked to James as a leader and applied to be part of the QRF. As alleged in the Fifth Superseding Indictment, the government discovered a message on James’s phone in which Defendant Walden stated:

I am interested in the QRF team in D.C. I am former Firefighter, EMT-Band have a K-9 trained for security patrol (82 lb. German Shepherd named ‘Warrior’). I have a Jump Bag with Trauma supplies and have ALL the necessary 2A gear¹ that the situation may require. PLEASE ADVISE. As soon as I hear from you I can hit the road to join up!
Jonathan Walden

(ECF 328 at ¶ 81). On January 5, 2021, James had a phone call with Defendant Walden that lasted over 18 minutes, before Defendant Walden eventually joined James and his group of codefendants on January 6 and breached the Capitol building with them.

5. On January 6, 2021, James continued to act as a leader in this group. Sometime after 2:00 p.m., James was with Defendants Minuta, Ulrich, Walden, Grods, and others at the Mayflower Hotel, where some of these defendants stayed under James’s name and credit card. (ECF 328 at ¶ 101). When they learned that other individuals were breaching the Capitol building, Defendant Minuta exclaimed something to the effect of “Now we’re talking, that’s what I came up here for!” James instructed the group to collect their gear and prepare to head to the Capitol building. The defendants equipped themselves with tactical vests, goggles, tactical gloves, gaiters, backpacks, bear spray, and a large stick all before loading into two golf carts and driving around law enforcement barricades to the Capitol. (ECF 328 at ¶ 127).

¹ The government understands “2A gear” to refer to “Second Amendment gear” or firearms and associated equipment.

6. At the Capitol grounds, James eventually stated to Defendants Minuta, Ulrich, Walden, and Grods, “They’re going in over there, let’s go! Let’s get up there!” With James leading the way, the group headed straight to the east Rotunda Doors, where James eventually said, “we’re going in.” Defendant Minuta yelled, “Hell yeah!,” and he and Defendants Ulrich, Walden, and Grods all followed, breaching the Capitol building. (ECF 328 at ¶¶ 162-163).

B. Assaults on Law Enforcement

7. As detailed in ECF 163, the government became aware after the April 9 detention hearing that James assaulted law enforcement officers while in the Rotunda.² James and Defendant Minuta both pushed past officers who had placed hands on their chests in an apparent attempt to stop the defendants from entering. James and Defendant Minuta then successfully pushed their way to the Rotunda entrance.

8. James assaulted law enforcement officers in the Rotunda, as captured on law enforcement body worn camera and video recorded by Defendant Minuta. Standing behind the defendant with the camera, Defendant Minuta yelled, “This is what’s bound to happen, just get out! Get out! Get these cops out! It’s our fucking building! Get ‘em out, get out!” Other rioters began yelling, “Pull the cops out! Pull ‘em out!” James repeatedly yelled, “You want out!?” and forcefully grabbed an officer by the arm. The officer straightened his arm and grabbed James’s shoulder, but James yanked the officer toward the lobby and rioters. Surrounding officers forced James to stop pulling the officer and pushed James away.

9. James responded by approaching the officers again and grabbing another officer by both shoulders. James, while aggressively yanking the officer toward the Rotunda exit, started

² The Court previously did not consider this evidence in the government’s attempt to reopen the detention hearing under 18 U.S.C. § 3142(f), based on “information ... that was not known to the movant at the time of the hearing,” concluding that the evidence had been in the government’s possession. The government now relies on this evidence to oppose the defendant’s attempt to step down his conditions and summarizes the details in ECF 163.

screaming, “Get out of my Capitol! Get out! Get out of my Capitol!” The officer broke out of James’s grip, but he tried again to grab the officer’s shoulders and tugged the officer toward the lobby.

10. Then James grabbed a third officer’s hand and shield before pulling them both toward the lobby. The officer held the shield with both hands apparently to prevent James and others from stealing it and was unsuccessful. The defendant then started jumping and thrashing over other rioters toward the officers, yelling “This is my fucking building! This is not yours! This is my Capitol!” At least one officer eventually aimed OC spray specifically at James after his physical confrontation with the officers. Multiple officers pushed James from behind, forcing him to exit the Rotunda. Rubbing his eyes and face after being sprayed, the defendant retreated into the lobby and eventually exited the Capitol, where he met up with multiple coconspirators who had also breached the building.

C. Post January 6 Conduct Focused on Stopping the 2020 Presidential Election

11. James continued to coordinate with others to stop the Presidential Election after storming the Capitol on January 6.

12. Previously, James had sent required reading to Defendant Grods before a meeting on December 23, 2020. Specifically, James instructed Defendant Grods to read Person One’s “Open Letter to President Trump, Part II: Act Now! Do NOT Wait for Jan 6,” which Person One had posted that same day.³ In this letter, Person One implored President Trump, in part to:

- “[A]ttack” by “invok[ing] the insurrection act, declaring an insurrection to be in existence by domestic enemies of the Constitution who are in allegiance with, and doing the bidding of, Communist China and its globalist allies, intent on stealing the election and installing their puppet”; and

³ The full text of Person One’s open letter that James circulated can be found here: <https://oathkeepers.org/2020/12/open-letter-to-president-trump-part-ii-act-now-do-not-wait-for-jan-6/> (last accessed on August 24, 2021).

- Ignore those saying President Trump “must wait for various reasons – such as waiting until after January 6, when the joint session of Congress meets to process the electoral college votes. Do not listen to them. That’s just part of the plan to run the clock out on you. Do your duty, and do it now. Recognize you are already in a war, and you must act as a wartime president, and there is not a minute to lose.”

13. Person One’s open letter that James sent to a coconspirator also detailed what actions they may take if the Election went forward for President-Elect Joseph R. Biden or if President Trump failed to act:

- “If you fail to act before January 6, 2021, and Congress at that time fails to defend the Constitution and stop the steal, as we expect them to, then we urge you to immediately” invoke the “Insurrection Act,” “[c]all all all patriotic veterans into federal service as part of the militia,” and “[c]all all all patriotic Americans of military age into service.”
- “If you fail to do your duty, you will leave We the People no choice but to walk in the Founders footsteps, by declaring the regime illegitimate, incapable of representing us, destructive of the just ends of government – to secure our liberty- and to be a mere puppet of a deadly foreign enemy. And, like the Founding generation, we will take to arms in defense of our God given liberty, we will declare our independence from that puppet regime, and we will fight for our liberty.”

14. The ongoing investigation shows that James not only circulated this letter but acted on it. Immediately after January 6, when Congress eventually certified the Election despite the Capitol siege, James traveled to Texas with Person One, bringing all his firearms. On January 8, James messaged Defendant Grods on Signal, “I’m with [Person One’s initials]. He’s in bama. I have to go to TX.. ANOTHER call to action. Taking all available weapons. Can I use your Mossberg [Shotgun].”

15. While in Texas, James exchanged multiple messages with coconspirators about the “Insurrection Act” – outlined in the open letter James had sent around as the trigger for “militia” action to stop the 2020 Presidential Election. On January 10, for example, Defendant Ulrich and James exchanged the following messages:

- **Ulrich:** We heard [Person One] might be disseminating information to all of us is that true?
- **James:** Hes gone comms dark. Im with him.
- **Ulrich:** Oh? Lol well there was talk that he was announcing. Can you guys at least tell me or us is trump going to do something is up with this is all about is he actually doing something?...
- **Ulrich:** Been hearing since this AM that trump signed EO and he was going to have a speech but nothing confirmed.
- **James:** That's correct. The Insurrection act has been signed but not published to the public. They are keeping him locked away.. theres so much bad information coming from all angles its really difficult to determine whats real and what's fake.
- **Ulrich:** But is it coming that's all I want to know...
- **James:** Everyone needs to stay calm, and let's see what POTUS does.. Yes Its already happening.
- **Ulrich:** Ok. [Person One] ok? You guys needs to stay below the radar.

16. That same day, James also messaged with Defendant Kelly Meggs, the other half of the "SE leaders," about the "Insurrection Act" and possible need for action:

- **Kelly Meggs:** Insurrection act appears to be signed and we shall se what tomorrow brings.
- **James:** Yes..
- **Kelly Meggs:** Stay safe
- **James:** You too! Are you coming to TX?
- **Kelly Meggs:** Nope Fl stays home until shots fired !

D. Internet Donations

17. In support of his motion, James argues that he was the "primary breadwinner for his family" and "has been unable to earn any income since his arrest." *See* ECF 346 at 2. Yet,

James's spouse started soliciting donations on the internet for James and his family within days of his arrest, stating that he "was arrested on March 9, 2021 and denied bail on March 11, 2021 due to attending the rally in D.C. on January 6th even though he was NOT involved in any violence on that day."⁴ According to the site, "[t]he funds from this campaign will be received by Joshua James." As of August 24, 2021, James has accrued \$192,518 of a stated \$250,000 goal. Notably, "[a]ll donations will go towards Joshua's legal fees, incarceration expenses and *family expenses including bills, groceries and travel to DC.*" (Emphasis added). Donors continue to send money via the site, with one individual providing money as recently as today, August 24, 2021. And this does not include the money Defendant Harrelson's wife has provided James's family during this case. At an average collection of about \$8,021.58 a week since his arrest, James's family appears to be supporting themselves without needing to let James out of home detention into a 60-mile radius for 50 hours a week.

E. *Conclusion*

18. For all these reasons, the government submits that James's conditions of release are appropriate and necessary to ensure the safety of the community, and he has presented no argument that warrants stepping those conditions down.

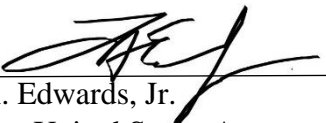
WHEREFORE, the United States respectfully submits that Defendant James's request to modify conditions of release should be denied.

⁴ See <https://givesendgo.com/G22YA> (last accessed on August 24, 2021).

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