

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

**GOVERNMENT’S SUPPLEMENTAL BRIEF IN SUPPORT OF
MOTION FOR MODIFICATION OF CONDITIONS OF RELEASE**

On June 24, 2024, the Court authorized (ECF No. 643) the parties to “file any additional evidentiary attachments/exhibits in support of, or in opposition to,” the Government’s Motion for Modification of Conditions of Release (ECF No. 592). Pursuant to that order, the Government filed (ECF No. 652) exhibits further substantiating the well-established fact “that former President Trump’s words have real-world consequences,” including that “those on the receiving ends of his attacks” are often “subjected to a torrent of threats and intimidation from his supporters.” *See United States v. Trump*, 88 F.4th 990, 1011 (D.C. Cir. 2023). For his part, Trump submitted (ECF No. 651) nine newspaper articles and two press releases all attempting to provide an entirely implausible, and ultimately irrelevant, explanation for whom he was targeting, on the day following his initial appearance in the election case, when he posted, “IF YOU GO AFTER ME, I’M COMING AFTER YOU!” *See* ECF No. 652-5. The Government respectfully submits this

supplemental brief, as permitted by the Court (ECF No. 657), to address why these recent filings support granting the Government's motion.

DISCUSSION

The Government's exhibits demonstrate that when Trump singles out public servants with vitriolic and inflammatory attacks, those people (and their family members) are routinely subjected to death threats, doxing, swatting, and other forms of harassment as a result. This has been true of judges and court staff, *see* ECF No. 652-5, 652-6; prosecutors, *see* ECF No. 652-7, 652-8; and public officials who were involved in the 2020 election and are potential witnesses in the election case, *see* ECF No. 652-9. To take but a few examples:

- Three days after the indictment in the election case, and one day after Trump's initial appearance, Trump posted, "IF YOU GO AFTER ME, I'M COMING AFTER YOU!" ECF No. 652-5A. The following day, one of Trump's supporters called the chambers of Judge Tanya Chutkan and said, "Hey you stupid slave n****r," and then "threatened to kill anyone who went after President Trump." ECF No. 652-6A. The caller went on to say, "If Trump doesn't get elected in 2024, we are coming to kill you, so tread lightly, bitch. . . . You will be targeted personally, publicly, your family, all of it." *Id.* Even after this death threat was publicly reported and discussed in court filings in the election case, Trump continued attacking Judge Chutkan, calling her a "TRUE TRUMP HATER" who "is incapable of giving me a fair trial," and promoting a claim that she had "openly admitted she's running election interference against Trump." *See* ECF No. 652-5B. In January 2024, Judge Chutkan's home was reportedly swatted. *See* ECF No. 652-6B.
- In the civil case in New York, Trump frequently attacked the presiding judge, Arthur Engoron, as a "vicious" "political hack" whose "intentional and criminal interference with

the Presidential Election of 2024” “must be stopped.” *See* ECF No. 652-5C. Trump also singled out Justice Engoron’s “Trump Hating wife” and his “crooked and highly partisan Law Clerk,” whom he identified by name, posting a photograph (later removed by court order) falsely claiming that she was the “girlfriend” of one of Trump’s political opponents. *See id.*; ECF No. 652-6C at Ex. E. Following these attacks, “[o]n a daily basis, the judge and his staff are being inundated with hundreds of harassing and threatening phone calls, voicemail messages, and emails,” many of which “are considered to be serious and credible and not hypothetical or speculative.” ECF No. 652-6C at Ex. E. The threats against Justice Engoron and his law clerk “increased exponentially” after Trump’s attacks, then decreased after implementation of “the limited gag orders” in that case, only to increase again when Trump “violated the gag orders.” *Id.*; *see* ECF No. 652-6D (Trump “takes a large group of angry people, he points them in a particular direction, and then the judges get all these death threats”).

- In his criminal case in New York, Trump has attacked the District Attorney as a “Racist,” a “THUG[],” an “ANIMAL,” a “degenerate psychopath,” and “HUMAN SCUM,” who “is doing the work of Anarchists and the Devil” and is worse than “THE GESTAPO.” *See* ECF No. 652-7A. As a result of these attacks, “the volume of threatening, harassing, or offensive calls and emails [to the District Attorney’s Office] increased significantly, exceeding the capacity of the DA Office’s investigators and NYPD detectives detailed to the DA’s Office.” *See* ECF No. 652-8A. Many of those threats directly echoed Trump’s public attacks and invoked Trump by name, saying, for example, “Leave Trump alone . . . or Bragg will get assassinated.” *Id.* At another point, the District Attorney’s Office “received a letter addressed to the DA containing a white powder and a note including

images of the DA and of Donald Trump and the words ‘you will be sorry.’” *Id.* On the first day of trial, there was “a bomb threat to two of the people involved in the case.” ECF No. 652-8B. And another person, who described himself as “a MAGA TRUMPER,” threatened to kill the District Attorney and others, *see* ECF No. 652-8C, and then pointed a gun at FBI agents when they came to arrest him, resulting in a fatal shootout.

- In the wake of the 2020 election, Trump used his Twitter account to target a city election commissioner, whom he identified by name. *See* ECF No. 652-9B. As the commissioner later testified, “After the President tweeted at me by name, calling me out the way that he did, the threats became much more specific, much more graphic, and included not just me by name but included members of my family by name, their ages, our address, pictures of our home. Just every bit of detail that you could imagine. That was what changed with that tweet.” *Id.*

There is thus overwhelming evidence that when Trump holds up public servants for sustained, inflammatory attacks, a “predictable torrent of threats of retribution and violence” follows. *Trump*, 88 F.4th at 1015. Trump is well aware of this dynamic, as it has been the subject of extensive litigation, court findings, and reporting. *See* ECF No. 652-11; ECF No. 652-6D. And yet he has made no effort to discourage these threats and harassment, despite knowing that his followers listen to him “like no one else,” *see* ECF No. 652-10; *see also* ECF No. 652-11C (noting “the singular power” that Trump’s “words have on countless others”). The only reasonable inference—which Trump has made no effort to dispel—is that he tacitly welcomes and encourages the threats that some of his followers inevitably visit on those whom he targets. *See, e.g., Allen v. United States*, 164 U.S. 492, 496 (1896) (noting “the familiar proposition that every man is presumed to intend the natural and probable consequences of his own act”).

Against that backdrop, it is apparent that Trump’s recent false and inflammatory claim that the agents who executed the search warrant at Mar-a-Lago were out to kill him and endanger his family, *see* ECF No. 652-1, foreseeably exposed those agents to the very sorts of threats and harassment that has been visited on his other targets. This conclusion is particularly clear given that his recent false claims came on the heels of nearly two years of his sustained attacks on the FBI stemming from the execution of the search warrant, *see* ECF No. 652-3, which have *already* resulted in threats and violence against FBI agents and facilities, *see* ECF No. 652-4. After adding his recent false and inflammatory claims to the climate of anger that he has created, he cannot plausibly claim that his statements do not “endanger the safety of any other person or the community,” 18 U.S.C. § 3142(c)(1). Nor can he plausibly claim that the danger to the agents is meaningfully reduced by the existence of the protective order, given the widespread prevalence of doxing and the fact that Trump’s own former aide revealed the identities of two of the agents after the search, *see* ECF No. 652-4D.

Trump’s recent filings make no effort whatsoever to dispute this. *See* ECF No. 651. Instead, he submitted nine newspaper articles and two press releases all attempting to put an implausible spin on a single post—namely, the August 4, 2023 post stating, “IF YOU GO AFTER ME, I’M COMING AFTER YOU!” *See* ECF No. 652-5. Notably, his exhibits focus only on the issue of *whom* he intended to target with his vengeful message, not *whether* his message was a vengeful one. *See, e.g.*, ECF No. 651-7 (defense exhibit referring to Trump’s “rules of revenge and grievance”). Trump nevertheless insists that, although this post came three days after the indictment in the election case, and one day after the initial appearance, the “YOU” that he subjectively intended to threaten were “special interest groups and Super PACs, like the ones funded by the Koch brothers and the Club for No Growth,” *see* ECF No. 651-11.

Nothing supports this after-the-fact rationalization. To the contrary, in the post immediately preceding the “IF YOU GO AFTER ME, I’M COMING AFTER YOU!” post, Trump circulated a video clip referring to the Special Counsel, the Attorney General of New York, and the district attorneys for New York and Fulton County collectively as a group of “unscrupulous accomplices” that Trump labeled “the Fraud Squad.”¹ Numerous other posts that day, and in the days preceding it, referred directly to the criminal charges Trump was facing.² By contrast, no posts that day, or in the weeks preceding it, referred to the Koch brothers, the Club for Growth, the Republican Accountability Project, or the Win It Back PAC. *Cf.* ECF No. 651. And when Trump *had* posted (months earlier) about Super PACs “like the ones funded by the Koch brothers,” ECF No. 651-11, he named them directly and minimized the significance of their opposition, dismissing a news report that “the Koch (missing!) ‘Network’ . . . won’t be supporting me this time around,” and explaining, “THEY NEVER DID SUPPORT ME, and I don’t want their support, even though David Koch was, before his passing, a very happy member of my Clubs {as are other Koch family members}.”³ There is simply no basis to believe that when Trump posted, “IF YOU GO AFTER ME, I’M COMING AFTER YOU!,” he was referring to the Koch brothers or any

¹ <https://truthsocial.com/@realDonaldTrump/110833024321227364> (Aug. 4, 2023 at 15:35:39).

² *See, e.g.*, <https://truthsocial.com/@realDonaldTrump/110832813840040378> (Aug. 4, 2023 at 14:42:07) (stating that being charged “with FAKE crimes” is something that “[s]hould not be allowed to happen!”); <https://truthsocial.com/@realDonaldTrump/110832320826856763> (Aug. 4, 2023 at 12:36: 44) (claiming that the charges constitute “ELECTION INTERFERENCE!”); <https://truthsocial.com/@realDonaldTrump/110831337231923264> (Aug. 4, 2023 at 8:26:36) (referring to “fighting these Radical Left Thugs in numerous courts throughout the Country”); <https://truthsocial.com/@realDonaldTrump/110828062805817649> (Aug. 3, 2023 at 18:33:52) (stating that he “HAD TO FLY TO A FILTHY, DIRTY, FALLING APART, & VERY UNSAFE WASHINGTON, D.C., TODAY” and was then “ARRESTED BY MY POLITICAL OPPONENT”).

³ <https://truthsocial.com/@realDonaldTrump/109836837116461390> (Feb. 9, 2023 at 16:12:08).

affiliated PACs, rather than to the judges and prosecutors he was targeting in the immediately preceding posts.

In any event, Trump's implausible explanation and his exhibits have no bearing on the pending motion. The question before the Court is whether to modify Trump's conditions of release to prohibit him from making extrajudicial statements that pose a significant, imminent, and foreseeable danger to law enforcement agents participating in the investigation and prosecution of this case, such as his false and inflammatory claim that the agents who executed the search warrant at Mar-a-Lago were out to kill him and endanger his family. Trump's filing does not speak to that question.

By contrast, the Government's exhibits demonstrate that Trump's frequent attacks predictably result in death threats, doxing, swatting, and other forms of harassment. The Court should therefore find that the proposed condition is "reasonably necessary . . . to assure the safety of any other person and the community." 18 U.S.C. § 3142(c)(1)(B)(xiv). A condition based on that finding fully comports with the First Amendment. *See Trump*, 88 F.4d at 1006; *United States v. Lillemoe*, No. 15-CR-25, 2015 WL 9694385, at *2 (D. Conn. May 28, 2015). And even if the condition were considered under the standards used to evaluate a speech restriction imposed as an exercise of the Court's inherent authority to protect the integrity of ongoing criminal proceedings, such a condition satisfies the First Amendment, regardless of which level of scrutiny applies, *see* ECF No. 592 at 9-10; ECF No. 638 at 2-5.

CONCLUSION

Over the past year, Trump has repeatedly targeted public servants with vitriolic attacks, resulting in a torrent of death threats, doxing, swatting, and other forms of harassment. When he recently decided to falsely accuse the law enforcement agents involved in this case with taking

part in a plan to kill him and his family, he knowingly exposed them to similar treatment. The Court should modify his conditions of release to prohibit similar conduct moving forward.

Respectfully submitted,

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July 5, 2024

CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Jay I. Bratt
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