

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CASE NO. 21-MJ-2956
	:	
RONALD COLTON MCABEE	:	

GOVERNMENT’S MOTION FOR PRETRIAL DETENTION

The United States of America, by and through counsel, the Acting United States Attorney for the Middle District of Tennessee, respectfully submits this memorandum in support of its motion that the defendant, Ronald Colton McAbee, be detained pending trial pursuant to 18 U.S.C. §§ 3142(e), (f)(1)(A), and (f)(1)(E). There are no conditions or combination of conditions which will reasonably assure the appearance of the defendant as required and ensure the safety of any other person and the community.

The government respectfully requests that the following points and authorities, as well as any other facts, arguments and authorities presented at the detention hearing, be considered in the Court’s determination regarding pre-trial detention.

Factual Background

1. The Attack on the United States Capitol on January 6, 2021.

The United States Capitol is secured 24 hours a day by U.S. Capitol Police. (“USCP”) Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized individuals with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the U.S. Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the U.S. Capitol to certify the vote count of the Electoral College for the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Michael Pence, who is also the President of the Senate, was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Michael Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the U.S. Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the U.S. Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

At approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, and Vice President Michael Pence, were instructed to—and did—evacuate

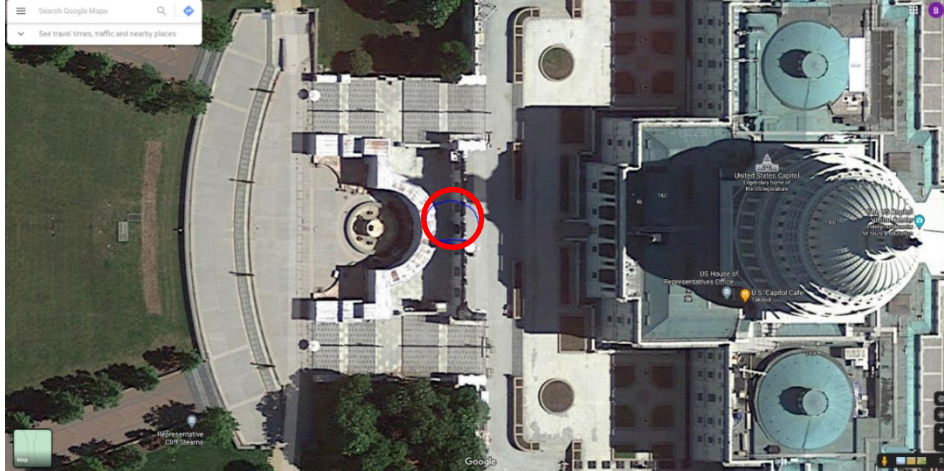
the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During the course of the violent protests, several individuals were armed with weapons including bats, pepper spray, sticks, zip ties, as well as bulletproof vests and anti-tear gas masks. During the course of the violent protest, several law enforcement officers were assaulted and injured by these violent protesters while attempting to protect the U.S. Capitol and the individuals inside of the building. These assaults occurred both inside of the Capitol, as well as on the steps outside of the Capitol and the grounds of the Capitol. The defendant, as detailed below, is charged with two instances of assault, two counts of civil disorder, as well as other criminal violations, including offenses involving the use or carrying of a deadly or dangerous weapon on the Capitol grounds.

2. Ronald Colton McAbee's Criminal Conduct

a. Assault of Metropolitan Police Department Officers

MPD Officers A.W., B.M., and C.M. were amongst those MPD officers who were directed to report to the U.S. Capitol to assist the USCP in their duties to maintain the security of the U.S. Capitol on January 6, 2021. By 4:27 p.m., they had assumed posts in an archway (the "Archway") that provided access to the interior Capitol building from the lower west terrace of the building. A.W., B.M., and C.M. were each wearing full MPD-issued uniforms; A.W. was also wearing an MPD-issued neon jacket. The officers' approximate location is denoted below by the red circle.



By that time, hundreds of individuals had gathered outside of the Archway, some of whom were throwing and swinging various objects at the group of law enforcement officers.

In a 90 second time period, from approximately 4:27:00 to 4:28:30, Officers A.W., B.M., and C.M. were brutally assaulted by the rioters, including the defendant.¹ Specifically, Officer A.W. was knocked to the archway ground by a currently unidentified assailant, and then had his baton snatched out of his hands by another rioter – codefendant Jeffrey Sabol. While Officer A.W. was laying on the ground of the Archway, another rioter – codefendant Jack Wade Whitton – began striking at B.M. with a crutch, kicked at A.W., and, assisted by Sabol and another rioter, pulled Officer B.M. out of the Archway, over Officer A.W., and into the crowd where another rioter – codefendant Peter Stager – began beating B.M. with a flagpole.

The defendant, Ronald Colton McAbee, then joined the attack, which was captured by

¹ Right before the assault began, the crowd of rioters had crushed against the line of police officers protecting the Archway and several rioters were trampled by the mob. Seconds before these assaults of Officers A.W., B.M, and C.M., at least two rioters were in medical distress and a member of the crowd was pleading with Officer A.W. and others for help, as his friend was having a medical emergency. That individual was attempting to bring his friend’s body forward to law enforcement when the assaults of Officers A.W., B.M., and C.M. began.

officers' body-worn cameras ("BWCs") from the inside of the Archway, and by other individuals outside of the archway, including video posted by Storyful to YouTube (the "Storyful Video").² McAbee grabbed at A.W.'s torso, while codefendant Clayton Ray Mullins grabbed A.W.'s leg and engaged in a tug-o-war with officers who were trying to pull A.W. back in to the Archway, as depicted in the images below.

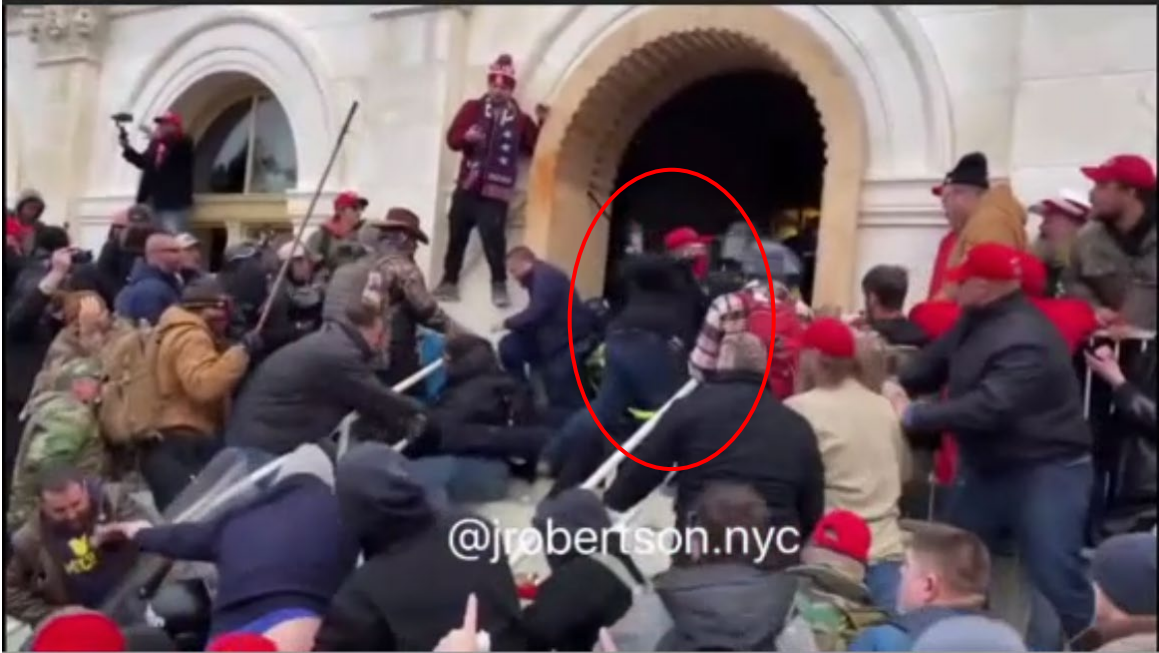


² Available at <https://youtu.be/aEGthdTzedk>.

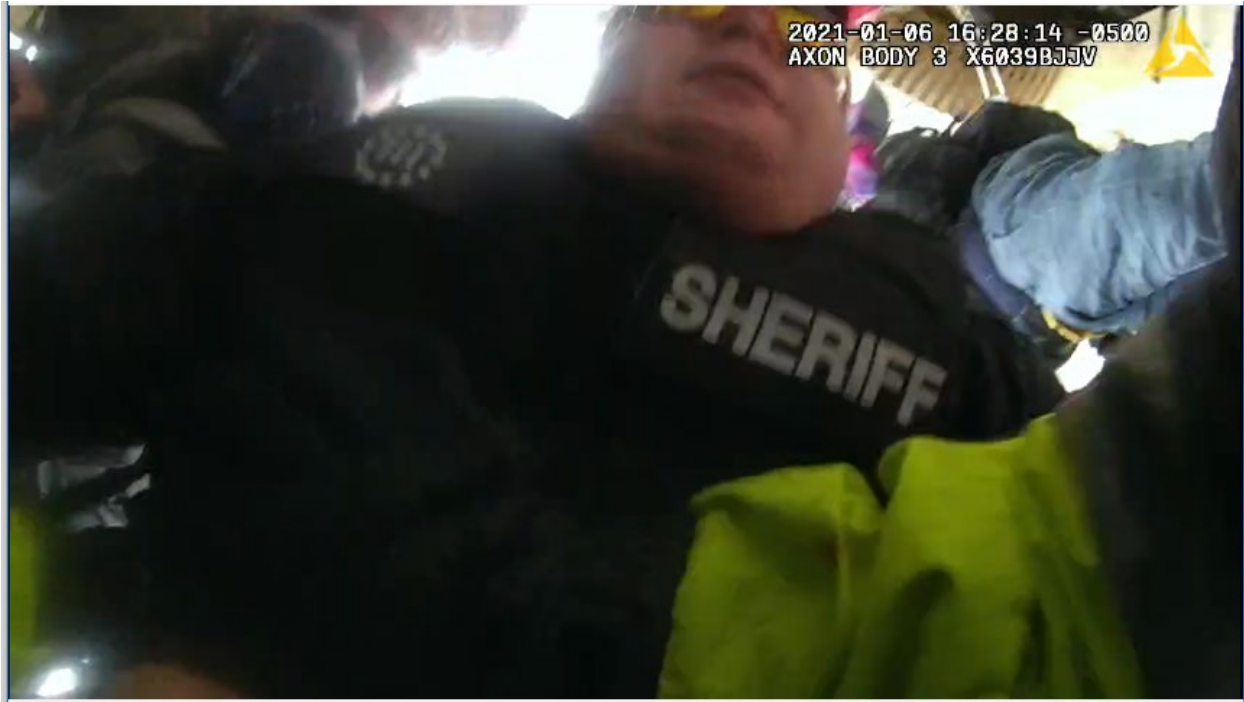


Officer C.M. stepped out of the Archway in an attempt to come to the aid of A.W. and B.M. McAbee then stood upright and began swinging his arms at C.M., as depicted in the images below:





When C.M. attempted to push McAbee aside with a baton, codefendant Michael Lopatic emerged from the crowd, climbed over a handrail, charged at C.M and repeatedly punched C.M. McAbee turned back to A.W. and grabbed his torso, pulling him out of the Archway. The two slid down a set of stairs and into the crowd together, with McAbee on top of A.W. and pinning A.W. down for approximately 25 seconds, as depicted in the images below:



Officer A.W. recalled having his helmet ripped off his head and being stripped of his baton, gas mask (which was later recovered), and MPD-issued cellular phone. As he was dragged into

the mob, Officer A.W. was kicked, struck with poles, and stomped on by several individuals. Additionally, Officer A.W. recalled being maced once his mask was ripped off. At some point during the assault, Officer A.W. was able to retrieve his gas mask and one individual prevented the rioters from further assaulting him, allowing him to get on his feet and back to the Archway area. Once A.W. was back in passageway that connected to the Archway, another officer realized A.W. was bleeding from his head. A.W. was subsequently escorted to the east side of the Capitol building before being taken to the hospital. At the hospital, A.W. was treated for a laceration on his head which required two staples to close.

b. The Defendant Possessed Deadly or Dangerous Weapons on January 6, 2021

During the assaults described above, the defendant was wearing gloves with reinforced knuckles. And, immediately prior to the assaults described above, McAbee was carrying what appeared to be a baton or a black stick. These weapons are apparent in the images below:





3. Identification of the Defendant

In photographs and videos of McAbee during the assaults and at other times on January 6, 2021, he is wearing a black tactical vest emblazoned with the Roman numeral III encircled in stars³

³ Individuals and militia extremists sometimes call themselves “Three Percenters” (“III%ers” or

and a patch that read “SHERIFF,”⁴ a red “Make America Great Again” baseball hat, a red face scarf / bandana, white sunglasses with polarized lenses, a black shirt with white lettering that read, in part, “DIFFERENT GENERATION,” and black gloves with hard, metal-colored knuckles.

On or about January 19, 2021, the FBI posted to the internet a “Be on the Lookout” (“BOLO”) for the individual depicted below (who, at the time, was referred to as “BOLO #134”):



On or about May 19, 2021, the FBI posted additional photos and BWC video footage depicting

“threepers”) based on the myth that only three percent of American colonists took up arms against the British during the American Revolution. Some Three Percenters regard the present-day U.S. Government as analogous to British authorities during the American Revolution in terms of infringements on civil liberties. While many independent or multi-state militia groups incorporate III% in their unit names, the term is less indicative of membership in a single overarching group than it is representative of a common belief in the notion that a small force with a just cause can overthrow the government if armed and prepared. Some Three Percenters or Three Percenter groups utilize a Roman numeral three (III), surrounded by a circle of stars – similar to the one displayed on McAbee’s vest.

⁴ Based on this insignia, social media and other internet users used the nickname “#threeperssheriff” to refer to McAbee and to compile images of him in the vicinity of the Capitol building on January 6, 2021.

BOLO #134 on January 6, 2021.

On or about May 26, 2021, a tipster responded to the FBI's BOLO #134 post identifying the subject as "Cole or Colton McAbee" of Roane County, Tennessee. The tipster provided a name for McAbee's spouse, advised that McAbee worked as a sheriff's deputy at the Cherokee County, Georgia Sheriff's Office ("CSO") around the time of January 6, 2021, but had quit and relocated to Tennessee, and had deleted his Facebook account following the events of January 6, 2021.

A representative of CSO confirmed an individual named Ronald Colton McAbee – the Defendant – had been employed by CSO and had left the agency in approximately November 2020, to take a position with the Williamson County Sheriff's Office ("WSO") in Tennessee. FBI agents subsequently interviewed two members of CSO who had worked with and/or supervised McAbee. During the interview, an FBI agent showed one of the CSO employees ("CSO-1") three pictures of BOLO #134, but did not provide any context for the pictures. CSO-1 indicated that s/he was pretty sure that the person depicted in those photographs was McAbee and noted that the stance of the person in the photographs was consistent with McAbee's. The second CSO employee ("CSO-2") then joined the interview and the FBI agent showed her/him the same three photographs. CSO-2 stated that the individual in the photographs was "absolutely" McAbee.

A representative of the WSO confirmed that McAbee had been employed by WSO from November 9, 2020 to March 23, 2021. FBI agents interviewed a WSO employee who had worked with McAbee and showed that employee the following picture of BOLO #134, but did not provide any context for the picture:



The WSO employee identified the picture as McAbee.

Postings to a Facebook account in the name of McAbee's spouse also confirm his identity.

Those posts include:

1. A photograph of a black tactical vest with a "Sheriff" patch:



2. A photograph posted on January 9, 2021, depicting McAbee wearing a CSO hooded sweatshirt and a hat displaying a Roman numeral three encircled in stars – similar to the emblem displayed on his tactical vest on January 6, 2021 -- with his right arm in a sling:



3. Additional posts that detail a car accident in which McAbee was involved in on December 27, 2020.

A Tennessee Electronic Traffic Crash Report confirms that McAbee was involved in a single-car accident on December 27, 2020 and was transferred by EMS (*i.e.*, by ground) to the hospital.⁵ McAbee subsequently submitted a request to WSO to be placed in the temporary disability program, and stated that he had injured his right shoulder and right hip in a car accident on December 27, 2020 and had been instructed to wear a sling. That request included information

⁵ A Tennessee State Trooper who responded to the accident (the “Trooper”) recalled that McAbee was up and walking after the accident and did not believe that McAbee sustained major injuries. The Trooper recalled that McAbee had injured his left arm.

from a physician assistant who treated McAbee, which indicated that McAbee had been examined by a medical professional on December 30, 2020 for injuries related to the accident and that as a result of the exam, McAbee was excused from work from December 30, 2020 to January 14, 2021. McAbee also signed a medical records release form on January 5, 2021. McAbee was cleared to return to work on January 14, 2021 with one limitation, no use of his right shoulder for four weeks.

4. The Defendant's Invocation of His Status as a Law Enforcement Officer

A few minutes after the assaults of Officers A.W. and C.M. described above, at approximately 4:30 p.m., McAbee returned the Archway and was part of a group of rioters who attempted to render aid to another rioter who was in medical distress, and helped to carry/drag that rioter to the entrance of the Archway. After that rioter was taken through the Archway, McAbee remained at the south side of the Archway, bent over, and appeared to be in pain. As rioters continued to throw objects at the police line, the officers sprayed crowd control spray at the crowd. McAbee gestured towards the passageway behind the officers, indicating that he wanted to enter, and exclaimed, "Don't spray me man, I'm not freaking hurting anybody." As another rioter yelled that the person in distress was McAbee's wife,⁶ the crowd surged at the police line, slamming it with riot shields, and pushing McAbee against the side of the Archway. As McAbee's right side was pressed against the side of the Archway, he exclaimed "I think I just broke my fucking shoulder," – consistent with him aggravating injuries sustained in the December 27, 2020 car accident – and asked one of the officers in the police line, "Can I get in?" (*i.e.*, through the line of

⁶ This individual who was in need of medical assistance has been identified and is not McAbee's spouse.

officers in the Archway). McAbee then pointed at the lettering on his vest, which read “SHERIFF,” and stated, “I can’t go back that way, man.”

5. The Defendant’s Association with Anti-Government Ideology

Despite himself having served as a sheriff’s deputy,⁷ and attempting to use this status to his advantage on January 6, 2021 (as well as wearing what appears to be government-issued tactical gear), the defendant repeatedly displays symbols of anti-government ideology. As discussed above, on January 6, 2021 and on other occasions, the defendant has worn insignia associated with Three Percenters. In addition, FBI agents have conducted surveillance of the defendant’s residence and observed that a black flag – which appears to be a black American flag – is displayed on the front porch residence. That black flag was flying outside the defendant’s home the day of his arrest. During the Civil War, Confederate soldiers flew the black American flag to symbolize the opposite of the white flag of surrender, *i.e.*, that the unit would neither give in nor surrender and it would not show clemency or mercy to a surrendering opponent. *See* Hate Watch Report, *Flags and Banners*, available at <https://www.hatewatchreport.com/flags-symbols>.

6. Procedural History

On August 4, 2021, a grand jury in the District of Columbia returned indictment 21 Cr. 35 (the “Indictment”) charging McAbee with

- 1) Assaulting, Resisting, or Impeding Certain Officers Inflicting Bodily Injury, in violation of 18 U.S.C. §§ 111(a)(1) and (b), and 2;
- 2) Assaulting, Resisting, or Impeding Certain Officers, in violation of 18 U.S.C. §

⁷ The Government believe that McAbee is no longer employed by any law enforcement agency.

111(a)(1);

- 3) Two counts of Obstruction of Law Enforcement During Civil Disorder, in violation of 18 U.S.C. § 231(a)(3);
- 4) Knowingly Entering or Remaining in any Restricted Building or Grounds with a Deadly or Dangerous Weapon, in violation of 18 U.S.C. §§ 1752(a)(1) and (b)(1)(A);
- 5) Disorderly and Disruptive Conduct in a Restricted Building or Grounds with a Deadly or Dangerous Weapon, in violation of 18 U.S.C. §§ 1752(a)(2) and (b)(1)(A);
- 6) Engaging in Physical Violence in a Restricted Building or Grounds with a Deadly or Dangerous Weapon, in violation of 18 U.S.C. §§1752(a)(4) and (b)(1)(A); and
- 7) Violent Entry and Disorderly Conduct on Capitol Grounds, in violation of 40 U.S.C. § 5104(e)(2)(F).

The defendant was arrested on August 17, 2021; his initial appearance and detention hearing is scheduled for August 17, 2021 at 1:00 p.m.

ARGUMENT

There are four factors under § 3142(g) that the Court should consider and weigh in determining whether to detain a defendant pending trial: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) his history and characteristics; and (4) the nature and seriousness of the danger to any person or the community that would be posed by his release. *See* 18 U.S.C. §3142(g). In consideration of these factors,

the government respectfully submits that there are no conditions or combinations of conditions which can effectively ensure the safety of any other person and the community.

Nature and Circumstances of the Offenses Charged

During the course of the January 6, 2021, siege of the U.S. Capitol, multiple law enforcement officers were assaulted by an enormous mob, which included numerous individuals with weapons, bulletproof vests, and pepper spray who were targeting the officers protecting the Capitol. Additionally, the violent crowd encouraged others in the crowd to work together to overwhelm law enforcement and gain unlawful entry into the U.S. Capitol.

What is extremely troubling about the defendant's conduct is the severity of his actions and his anticipation of and preparation for violence. As noted above, at approximately 4:27 p.m., the defendant purposefully approached a line of police officers who were guarding the Capitol building, grabbed Officer A.W. who had been thrown to the ground, and, in coordination with others, began to pull A.W. towards the violent mob where Officer B.M. was already being attacked. When another officer, C.M., attempted to come to A.W. and B.M.'s aid, the defendant attacked him as well, punching at him while wearing metal-knuckled gloves. The defendant then returned to A.W., dragging him into the mob, pinning him down, and contributing to the significant injuries that A.W. sustained and for which A.W. had to seek medical treatment. The defendant dressed in a manner that indicates that he anticipated violence at the Capitol. In addition to the metal-knuckled gloves, he wore a tactical vest. And he armed himself by carrying a baton or a stick.

In addition to this physical violence, the defendant also attempted to use his status as a law enforcement officer to breach the police line and gain entry to the Capitol building, potentially

endangering the officers further. And, the defendant's conduct contributed to the escalation of violence on the Capitol grounds on the afternoon of January 6, 2021, and, contributed to the ability of the large mob of individuals to successfully breach the U.S. Capitol, putting additional law enforcement officers and members and staff of Congress at grave risk. The defendant's actions aided other rioters who committed multiple other criminal acts inside the building.

Weight of the Evidence Against the Defendants

The second factor to be considered, the weight of the evidence, also clearly weighs in favor of detention. The evidence against the defendant is also quite strong and compelling. As noted above, the defendant was observed on police body worn cameras participating in the attack of law enforcement officers and dragging an officer into a violent mob. Additionally, social media videos capture the defendant's assaults and his uncovered face at other times on January 6, 2021. Moreover, the identification of the defendant was corroborated by multiple former co-workers at two sheriff's offices. The evidence against this defendant is overwhelmingly strong, and accordingly, the weight of the evidence weighs heavily in favor of detention.

Defendants' History and Characteristics

The government is not aware of any adult convictions of this defendant. However, the defendant's actions, as demonstrated by his apparent willingness to engage in multiple assaults as part of a violent mob should give this Court great concern about the danger he would pose to the community, if released. Additionally, the fact that McAbee engaged in violent assaults of fellow law enforcement officers *while he himself was a sheriff's deputy* and then attempted to use that status to obtain special treatment is powerful evidence of his lack of regard for legal authority.

Danger to the Community and Risk of Flight or Obstruction of Justice

The fourth factor, the nature and seriousness of the danger to any person or the community posed by a defendant's release, also weighs in favor of the defendant's detention. The defendant attacked police officers charged with protecting the Capitol building inside of which Congress was carrying out its duty to certify the 2020 election. The danger and injury the defendant caused by participating the violent mob cannot be understated. Moreover, the defendant poses a significant risk of flight and obstruction of justice. His conduct on January 6, 2021 was in and of itself is obstructive, as it was aimed at stopping the functioning of the United States government by derailing the certification of the electoral process, a cornerstone of our democracy. And it was made all the more so by the fact that, at the time, he was himself a law enforcement officer.

But that's not all. According to the tipster who identified him, the defendant deleted his Facebook account following January 6, 2021, potentially destroying evidence of his whereabouts that day and his motivations for his actions. And, the defendant's display of symbols of anti-government ideology indicate a lack of respect for the authority of the United States Government – including this court – and a disinclination to follow its mandates and directives. He now faces a significant term of imprisonment in the face of overwhelming evidence against him. All of this gives him a compelling incentive to flee, destroy evidence or intimidate witnesses, or otherwise disregard the obligations imposed on him by this Court by virtue of being a defendant in a criminal case.

The defendant was a spoke in the wheel that caused the historic events of January 6, 2021, and he is thus a danger to our society and a threat to the peaceful functioning of our community.

Given the above assessment of all four relevant factors, no condition, or combination of conditions, can ensure that the defendant will comply with court orders and abide by appropriate release conditions.

CONCLUSION

WHEREFORE, the United States respectfully requests that the Court grant the government's motion to detain the defendant pending trial.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be served electronically to counsel for defendant via CM/ECF on the 17th day of August 2021.

/s/ Joshua A. Kurtzman
JOSHUA A. KURTZMAN

