

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,) Criminal Action
) No. 22-60
vs.)
) December 21, 2022
VINCENT GILLESPIE,) 9:01 a.m.
) Washington, D.C.
Defendant.)

* * * * *

**TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE BERYL A. HOWELL,
UNITED STATES DISTRICT COURT CHIEF JUDGE**

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Official Court Reporter

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P R O C E E D I N G S

1
2 THE COURTROOM DEPUTY: Matter before the Court,
3 Criminal Case No. 22-60, United States of America versus
4 Vincent Gillespie.

5 Counsel, please come forward and state your names
6 for the record, starting with the government.

7 MS. SCHESNOL: Good morning, Your Honor.
8 Jacqueline Schesnol and Carolina Nevin representing the
9 United States. With us at counsel table are Shirine Rouhi,
10 Josephine Roberts, and Raymond Adams.

11 THE COURT: Good morning.

12 MR. WATKINS: Good morning, Your Honor.
13 Tim Watkins, Federal Defender Office, District of
14 Massachusetts, with Forest O'Neill-Greenberg and Aziza
15 Hawthorne. Vincent Gillespie is with us at counsel table as
16 well.

17 THE COURT: All right. Good morning.

18 All right. So this morning Ms. Gumiel got a phone
19 call from Juror No. 3 who attended a holiday party earlier
20 this week, had a scratchy throat last night, but otherwise
21 no symptoms. Tested negative yesterday, but tested positive
22 this morning. She is not coming.

23 So we have got to get this trial wrapped up before
24 we lose any more jurors. COVID is rampant right now in this
25 area.

1 MS. SCHESNOL: That's why we had alternates.

2 THE COURT: So this is what I plan to do. I plan
3 to tell the jurors -- I feel like I have an ethical
4 obligation to let them know that there was a juror who
5 tested positive this morning but tested negative yesterday
6 and is, generally, asymptomatic; that's why we've lost that
7 juror, and just remind them to keep masked. Hopefully, that
8 will have preserved the safety of everybody else on the
9 jury.

10 MS. SCHESNOL: Hopefully.

11 THE COURT: And will Mr. Gillespie reconsider
12 whether, when he testifies without a mask and without being
13 vaccinated, he will take a test, a rapid test. Things are
14 rampant right now. COVID is rampant in this area. There
15 are people who still remain quite vulnerable to COVID, and
16 there may be members of the jury who are not vaccinated
17 either.

18 MR. WATKINS: Understood.

19 I did take Mr. Gillespie's temperature this
20 morning, per the Court's direction in expectation of his
21 testifying today. He did come back at a normal temperature
22 range. He reports in good health, other than a lingering
23 cough from a respiratory matter that he had some two weeks.

24 THE COURT: Okay. Well, because we've noticed
25 he's been taking a lot of cough drops or something, and

1 that's -- given the fact that's one of the strains of COVID
2 going around this area, having a scratchy throat, that's
3 actually why the juror tested because she had a scratchy
4 throat. And all of us who keep up with the news understand
5 that that is sort of a sign of one strain of COVID going
6 around in this area right now; so she wisely tested. When
7 we have been seeing him eat cough drops regularly during the
8 day, during the course of the trial, it raises an obvious
9 concern that he has a scratchy throat.

10 MR. WATKINS: He doesn't have a scratchy throat;
11 it's the cough. He was concerned that he was distracting
12 people with the cough.

13 I will tell the Court that I have spent a lot of
14 time with Mr. Gillespie in the last couple of weeks. I am
15 familiar with many of the symptoms of COVID, having gone
16 through it myself twice. I don't see those symptoms in him,
17 and he does not report symptoms consistent with COVID. They
18 are manifested and are consistent with an upper respiratory
19 issue that he had, again, which I observed a couple of weeks
20 ago.

21 THE COURT: All right. Well, that's some
22 reassurance. Thank you, Mr. Watkins.

23 MR. WATKINS: You're welcome.

24 MS. SCHESNOL: If Mr. Gillespie changes his mind,
25 I have rapid tests with me.

1 THE COURT: I'm sorry.

2 MS. SCHESNOL: If Mr. Gillespie changes his mind,
3 I have rapid tests with me.

4 THE COURT: I trust that upstanding members of the
5 bar, who appear quite normal to me, have done everything in
6 their power to make inquiry of Mr. Gillespie about taking a
7 rapid test, and I trust their assurances that that's not
8 going to happen.

9 All right. Ms. Gumiel, could you check to see if
10 all the rest of the jurors are here? -- the 12 we are now
11 relying on to get us through the rest of the trial.

12 Has the government seen the filing made -- I don't
13 know when it was made, but I saw it first thing this
14 morning -- by the defense?

15 Do you have a position on it?

16 MS. SCHESNOL: Yes, Your Honor. We saw it.

17 We have not had an opportunity to draft anything
18 in writing. Generally, our position with regard to the 231,
19 these are not alternate elements, just alternate means by
20 which the element can be met. And the government --

21 THE COURT: Even if I agree with you on that, and
22 I think the defense doesn't -- actually, I think also agrees
23 with you on that; but there does need to be unanimity on the
24 manner in which it is proven. I don't see any harm in using
25 their -- you know, I am not sure I precisely like the

1 verdict form -- but to pose it in two different inquiries to
2 ensure that there is unanimity on the means proven.

3 MS. SCHESNOL: All I can tell the Court, without
4 having time to do additional research, is that in all of
5 these other January 6th cases in this courthouse -- with
6 231, there has been no such verdict form.

7 THE COURT: I learn something at every one of
8 these trials, and I am learning something on this. I
9 haven't had a 231, I don't believe. It's my first time
10 looking at it, it makes sense to me, to do a jury inquiry.

11 MS. SCHESNOL: I would ask, Your Honor, because it
12 did come in this morning, that perhaps if some of our
13 colleagues back at the office have time to do additional
14 research, or whatnot, that we be allowed the opportunity to
15 present that.

16 THE COURT: Of course. We -- this is not the
17 charging conference yet, so please.

18 THE COURTROOM DEPUTY: Are we ready?

19 THE COURT: We are ready.

20 MS. SCHESNOL: We are ready. And would you like
21 Officer Gazelle to take the stand right now?

22 THE COURT: Yes.

23 Officer Gazelle, please step on forward.

24 Please, bring the jury in.

25 (Whereupon, the jury returns to the courtroom.)

1 THE COURT: Good morning, ladies and gentlemen. I
2 hope you had a pleasant evening.

3 I did want to advise you that Juror No. 3 has
4 alerted us that she attended a holiday party and had a
5 scratchy throat last night, but was otherwise asymptomatic
6 and tested negative yesterday, but woke up this morning and
7 tested positive for COVID. I wanted to share that
8 information with you.

9 It is now incumbent on all of you to stay as
10 healthy as possible and wear your masks because we need you
11 through the course of this trial because we are now down to
12 12 of you, and all of you will be deliberating. I did want
13 to share with you that information about one member of your
14 group testing positive this morning. All right. So you can
15 let that soak in.

16 We will now resume direct examination of Capitol
17 Police Officer Gazelle.

18 Officer Gazelle, you remain under oath. You may
19 remove your mask while you are testifying.

20 THE WITNESS: Thank you.

21 MS. SCHESNOL: Thank you, Your Honor.

22 (MARK GAZELLE, Government witness, previously sworn.)

23 DIRECT EXAMINATION (continued)

24 BY MS. SCHESNOL:

25 Q. Officer Gazelle, when we left off yesterday, we were

1 just about to get to our civics lesson. And, with that, we
2 have admitted Exhibits 101 through 111.

3 MS. SCHESNOL: I would ask that Exhibit 101 be
4 pulled up. Since it's admitted, I would ask that it be
5 published to the jury.

6 THE COURT: Yes, it may be published.

7 (Whereupon, the exhibit was published.)

8 BY MS. SCHESNOL:

9 Q. Officer Gazelle, do you see -- is 101 on the screen in
10 front of you?

11 A. Yes.

12 Q. Great.

13 Do you know what Exhibit 101 is?

14 A. It is Amendment XII of the United States Constitution.

15 MS. SCHESNOL: I would ask Ms. Rouhi or
16 Ms. Roberts to scroll down and highlight some particular
17 sections of Amendment XII and ask that Officer Gazelle read
18 those out loud once they're highlighted.

19 THE COURT: Otherwise, you will need a magnifying
20 glass.

21 MS. SCHESNOL: Yes. We will try not only to
22 highlight them, but enlarge them as well.

23 Okay. Much better.

24 BY MS. SCHESNOL:

25 Q. Officer Gazelle, would you be so kind -- okay.

1 Would you be so kind as to read the highlighted
2 portion of Amendment XII to the Constitution?

3 A. The electors shall meet in their respective states and
4 vote by ballot for President and Vice President, one of
5 whom -- which lists they shall sign and certify, and
6 transmit sealed to the seat of the government of the
7 United States, directed to the President of the Senate.

8 The President of the Senate shall, in the presence
9 of the Senate and the House of Representatives, open all
10 certificates, and votes shall then be counted. The person
11 having the greatest number of votes for President, shall be
12 the President.

13 MS. SCHESNOL: You can stop there.

14 For highlighting purposes we have to make the
15 whole box -- so thank you.

16 And if we could pull up Exhibit 102, please also,
17 which has already been admitted. We would ask that it be
18 published to the jury.

19 THE COURT: And it may be published.

20 MS. SCHESNOL: Thank you.

21 (Whereupon, the exhibit was published.)

22 BY MS. SCHESNOL:

23 Q. Officer Gazelle, do you know what Exhibit 102 is?

24 A. I do.

25 Q. What is it?

1 A. This is Title III under U.S. Code describing how the
2 electoral process is achieved.

3 Q. And is this, in particular, Subsection 15?

4 A. Yes.

5 Q. You may have already said that, so I apologize.

6 Can you please read the highlighted portion?

7 A. Congress shall be in session on the 6th day of January
8 succeeding every meeting of the electors. The Senate and
9 the House of Representatives shall meet in the hall of the
10 House of Representatives at the hour of 1 o'clock in the
11 afternoon on that day, and the President of the Senate shall
12 be their presiding officer.

13 Q. You can stop there. Thank you very much.

14 So is that the code of the United States that
15 directs Congress to conduct the electoral certification that
16 you described yesterday that is to take place on January 6th
17 every four years?

18 A. It is.

19 Q. And is this the section that requires Congress to meet
20 at 1 p.m. to count the votes?

21 A. It is.

22 Q. Further, does -- is this the part of the code that
23 directs that these activities not only take place on
24 January 6th at one o'clock, but in the House Chamber?

25 A. That's correct.

1 MS. SCHESNOL: If we could please pull up
2 Exhibit 103.

3 BY MS. SCHESNOL:

4 Q. Are you familiar with what Exhibit 103 is?

5 A. That is also Subsection 16, under Title III of U.S. Code.

6 Q. And if you could please read the highlighted portion,
7 once we enlarge that.

8 Can you start with the "such joint meeting"?

9 A. Such joint meeting shall not be dissolved until the
10 count of the electoral votes shall be completed and the
11 result declared and no recess shall be taken unless a
12 question shall have arisen in regard to counting any such
13 votes.

14 Q. Thank you.

15 And so what -- what exactly does Section 16 of the
16 United States Code -- what does that mean, that it -- the
17 Joint Session will not be dissolved?

18 A. So the Joint Session will continue to finish through the
19 process of the counting of votes unless there is an
20 objection of a vote, then they have a section within
21 Title III that tells them how to deal with the objection.
22 And after the objection is moved forward on, they come back
23 and complete the counting process.

24 But the: By it not being dissolved, meaning that
25 they will not terminate the session until they come up with

1 a declared winner.

2 Q. No matter how long that takes?

3 A. No matter how long it takes.

4 Q. Even until 3:44 a.m., perhaps?

5 A. That is correct.

6 Q. Is there an official record of the proceedings before
7 Congress?

8 A. There is.

9 Q. Is that known as the Congressional Record?

10 A. It is.

11 Q. And the jury will get to see portions of that, which are
12 admitted in other exhibits and contained in Exhibit 107.

13 Yesterday, Officer Gazelle, you told us you got
14 to -- you got to the Capitol around 8, 8:30 in the morning
15 on January 6th; is that correct?

16 A. That's correct.

17 Q. And at some point did the Senate go to the House Chamber
18 for the Joint Session?

19 A. They did.

20 Q. And when -- when was that?

21 A. It was right before one o'clock. They assembled around
22 12:30, and then they gathered to -- to proceed down to the
23 House Chamber.

24 Q. And you explained to us yesterday that there is a House
25 Chamber and a Senate Chamber.

1 Why do the members of Congress meet in the House
2 Chamber instead of the Senate Chamber?

3 A. The House Chamber is a physically larger room that can
4 hold a larger group of people.

5 Q. Is the House Chamber where the State of the Union takes
6 place that some of us may have watched on TV over the years?

7 A. Yes, it is.

8 Q. And on January 6th of 2021, when senators went to the
9 House Chamber, did you go with them?

10 A. I did not go with them to stay. I -- we form up around
11 the Senate, move them down, which is led by the Senate
12 Sergeant at Arms, to the other side of the building. And
13 after they got to the chamber -- to the House Chamber, I
14 went back to the Senate Chamber.

15 Q. And by "they" and "them," you mean the senators?

16 A. Yes.

17 Q. And why did you go back to the Senate Chamber?

18 A. Because acting as a Joint Session, the Senate Floor must
19 remain open and it still requires us to protect the Senate
20 Floor.

21 Q. Okay. So even though the senators had left, you still
22 had a job to do?

23 A. That is correct.

24 Q. So you just verbally described for us the senators
25 moving through the Capitol from the Senate side to the House

1 side. I am going to put up -- back up the map we were
2 looking at yesterday of the second floor of the Capitol, and
3 I am going to switch to the lapel mic; and you may need to
4 do the same.

5 MS. SCHESNOL: Can all of the members of the jury
6 see this map?

7 Your Honor, can you see --

8 THE COURT: I can see the chart enough, please
9 proceed.

10 THE WITNESS: Would it help if I am on the other
11 side of it?

12 THE COURT: Possibly. Thank you.

13 BY MS. SCHESNOL:

14 Q. Hopefully this will work.

15 Officer Gazelle, can you just sort of slowly walk
16 us through the physical process?

17 And I say "slowly" so that we can make a record of
18 what you're pointing to as you point to it.

19 A. Sure.

20 Can you hear me?

21 Q. Yes.

22 A. So what you are asking is the path they take, correct?

23 Q. Yes.

24 A. So this, right here (indicating), is the Senate Chamber.

25 So once they come to gather in session, all of the senators,

1 led by the Vice President, will assemble at the main door of
2 the Senate.

3 Once they are all together, the Sergeant at Arms
4 will start leading us down the hallway. Capitol Police will
5 protect a ring around them. We will go down this
6 unobstructed hallway.

7 MS. SCHESNOL: I'm going to stop you right there
8 so we can make a good record.

9 Your Honor, may the record reflect that Officer
10 Gazelle has pointed, on Exhibit 214, to the furthest right
11 side of the map, identifying it as the Senate Chamber. And
12 he has begun to move the pointer to the left side of the map
13 as he describes the movement of the senators.

14 THE COURT: Let the record so reflect.

15 MS. SCHESNOL: Thank you.

16 BY MS. SCHESNOL:

17 Q. You may continue, Officer Gazelle.

18 THE COURT: And, Ms. Schesnol, do you want to
19 remove your mask?

20 MS. SCHESNOL: Now I'm a little paranoid.

21 BY MS. SCHESNOL:

22 Q. Okay. Thank you, Officer Gazelle. Please continue with
23 the description.

24 A. So as you walk down this hallway (indicating), you will
25 pass the Senate -- at the time the majority leader's office,

1 come up to the Senate -- called Rotunda, and go around this
2 colonnade. So go around to the right --

3 MS. SCHESNOL: Okay. I'm going to stop you right
4 there again.

5 So if the record may reflect, Officer Gazelle is
6 pointing to a circular area that is actually to the right of
7 the large Rotunda. And if I understood correctly, that
8 is -- that smaller circle is the Senate Rotunda.

9 THE WITNESS: That is correct.

10 THE COURT: Let the record so reflect.

11 MS. SCHESNOL: Thank you.

12 THE WITNESS: So, from there, then you proceed
13 into the great Rotunda.

14 BY MS. SCHESNOL:

15 Q. And is the great Rotunda what you described yesterday,
16 under the big center dome, Statue of Freedom sits atop the
17 Capitol?

18 A. That is correct.

19 And then, from there, you will cut across to this
20 little circular area on the opposite side of the Rotunda
21 (indicating), which you will then pass the Speaker of the
22 House's suite of offices. And that little nook leads you
23 right into Statuary Hall, which is the former House of
24 Representatives.

25 MS. SCHESNOL: Okay. I am going to ask you about

1 that in a second.

2 Your Honor, may the record reflect that Mark
3 Gazelle -- excuse me -- Officer Gazelle continues to move
4 the pointer to the left side of the map and is now pointing
5 to the area marked "Statuary Hall."

6 THE COURT: Let the record so reflect.

7 BY MS. SCHESNOL:

8 Q. So you were about to tell us something about Statuary
9 Hall that sounded like it could be interesting. Please
10 continue.

11 A. This is the former House of Representatives before they
12 built the new wings on the building. And so this is
13 considered a historic area within the Capitol and special
14 tributes are done in there.

15 Q. That is interesting. Please continue.

16 A. And then you go down this little neck right here
17 (indicating), which leads into the new wing of the Capitol.
18 As you enter here (indicating), that's the main door of the
19 House of Representatives.

20 And right here (indicating), then the -- they will
21 be greeted by the Sergeant at Arms of the House, who will
22 announce the presence of the Vice President and the Senate
23 to enter the chamber.

24 MS. SCHESNOL: Your Honor, may the record reflect
25 Officer Gazelle has now moved his pointer almost all the way

1 to the left side of the map and is pointing to the
2 semicircular area, and identifying that as the House
3 Chamber.

4 THE COURT: Let the record so reflect.

5 BY MS. SCHESNOL:

6 Q. Before you sit down, let me check my notes.

7 Officer Gazelle, you have shown us on the map that
8 it's pretty much a straight line from the Senate side, the
9 north side of the Capitol Building, to the south side -- the
10 House side or south side of the Capitol Building is pretty
11 much a straight line.

12 Was it designed that way for a particular reason?

13 A. Yes. There is no obstruction -- to include this
14 colonnade I spoke about earlier -- it's just the columns;
15 but there's big openings in between them, that was so the
16 two chambers could keep an eye on each other.

17 Q. So, in theory, if someone had really good eyesight,
18 someone presiding at the dais in the Senate could see the
19 person presiding at the dais in the House -- in theory; is
20 that right?

21 A. That's correct. The Vice President and the Speaker
22 could keep an eye on each other.

23 Q. I think that's it for this map, so we can resume our
24 places at the microphones that are more operable.

25 Please turn off your lapel mic so we don't get

1 feedback.

2 MS. SCHESNOL: If we could please pull up
3 Exhibit 107, which is a video that has already been agreed
4 to and, therefore, we're asking that it be published.

5 THE COURT: It may be published.

6 MS. SCHESNOL: And just to orient the jury, this
7 video is about 11 and a half minutes, but we will be
8 stopping throughout the video and asking Officer Gazelle to
9 describe what we're seeing in it.

10 BY MS. SCHESNOL:

11 Q. Officer Gazelle, are you familiar with Exhibit 107?

12 A. I am.

13 Q. And have you reviewed it before your testimony today?

14 A. Yes.

15 Q. Is Exhibit 107 a compilation video showing both the
16 House and Senate galleries on January 6, 2021?

17 A. It is.

18 MS. SCHESNOL: Your Honor, before we play
19 Exhibit 107, the parties have a stipulation that I would ask
20 be published and I will read to the jury.

21 I would ask it be admitted and published.

22 THE COURT: And the number?

23 MS. SCHESNOL: 1005.

24 THE COURT: I take it no objection?

25 MS. O'NEILL-GREENBERG: No objection.

1 THE COURT: All right. It may be published and
2 admitted.

3 (Government's Exhibit 1005, admitted.)

4 MS. SCHESNOL: Thank you.

5 Exhibit 1005, just to give you a prelude, is a
6 stipulation by the parties regarding the House and Senate
7 compilation video that is Exhibit 107 we're about to see on
8 January 6, 2021. Much of the proceedings taking place on
9 the Senate and House Floors were contemporaneously recorded
10 by the Senate recording studio and the House recording
11 studio, respectively.

12 The Senate recording studio's purpose is to serve
13 the Senate. The House recording studio's purpose is to
14 serve the House. Cameras on the Senate and House Floors
15 record activity occurring there. This footage is also
16 broadcast through the Cable-Satellite Public Affairs Network
17 a/k/a C-SPAN.

18 The video footage contained in Government's
19 Exhibit 107 is a fair and accurate description of the events
20 on the Senate and House Floors on January 6, 2021, with time
21 stamps on the recordings are accurate -- excuse me -- the
22 time stamps on the recordings are accurate. The video
23 footage was not altered or edited in any way.

24 On the second page it says: The video footage is
25 authentic in what it purports to be.

1 So, with that, let's go back to the compilation
2 video.

3 If we could please start playing this video, and I
4 would ask that it be paused at 11 seconds.

5 (Whereupon, the video was published.)

6 MS. SCHESNOL: We're paused here at 11 seconds.

7 BY MS. SCHESNOL:

8 Q. Officer Gazelle, what are we looking at at 11 seconds?
9 What do we see on our screen?

10 A. This is the floor of the House of Representatives.

11 Q. And to the left of the still shot of the House, do we
12 also see a portion of the Congressional Record you talked
13 about earlier?

14 A. Yes.

15 MS. SCHESNOL: Please press play. And I will ask
16 you to pause it at 26 seconds.

17 (Whereupon, the video was published.)

18 MS. SCHESNOL: We have paused the video at
19 26 seconds.

20 BY MS. SCHESNOL:

21 Q. Can you tell us what we see at this point in the video?

22 A. This is the floor of the U.S. Senate.

23 Q. And is this where you predominantly work?

24 A. That is correct.

25 Q. And we have taken you away from that this morning?

1 A. Yes.

2 Q. Do we also see part of the Senate Congressional Record
3 on the left side of the screen?

4 A. Yes.

5 Q. Please -- are you in the still shot, Officer Gazelle?

6 A. Not this still shot.

7 MS. SCHESNOL: Please press play. And I will ask
8 you to pause it again at 1 minute and 16 seconds.

9 (Whereupon, the video was published.)

10 MS. SCHESNOL: So the video, Exhibit 107, is
11 paused at 1 minute and 16 seconds.

12 BY MS. SCHESNOL:

13 Q. Officer Gazelle, can you tell us what we are seeing in
14 this frame?

15 A. This, right here, is a depiction -- or a picture of the
16 Vice President of the United States, Mike Pence, with the
17 leadership and other senators that are assembling at the
18 main door of the Senate to -- to proceed over to the other
19 chamber.

20 MS. SCHESNOL: We lost our video.

21 THE COURT: Did you press the ELMO button by any
22 chance?

23 MS. SCHESNOL: Sorry about that.

24 THE COURT: There we go.

25 MS. SCHESNOL: I apologize. Okay. We're back up

1 and running.

2 BY MS. SCHESNOL:

3 Q. You were -- you were saying Mike Pence and the
4 leadership are in this frame; is that correct?

5 A. That is correct.

6 Q. And what are -- Mike Pence and other individuals in this
7 still shot, what are they doing? Where are they going?
8 What's happening?

9 A. This is the main door of the Senate. They're
10 assembling; and they're preparing to proceed to go across
11 the path I showed you earlier to the House Chamber.

12 Q. And I see they're all wearing masks, much as we're still
13 doing today?

14 A. That is correct.

15 MS. SCHESNOL: If we can please -- if you would
16 please press play, and we will pause again at 2 minutes and
17 3 seconds.

18 (Whereupon, the video was published.)

19 MS. SCHESNOL: Can we pause it at 2 minutes and
20 3 seconds -- about 2 minutes and 2 seconds.

21 BY MS. SCHESNOL:

22 Q. We're paused here at 2 minutes and 3 seconds, and we see
23 some individuals carrying some objects.

24 What are those objects that I have circled in
25 blue?

1 A. Those are the electoral ballot bags or boxes.

2 Q. And what is contained in those?

3 A. Those are the actual electoral ballot counts that come
4 from each state.

5 Q. To the left of the screen, do we also see a document on
6 the left side of the screen of this video?

7 A. Yes.

8 Q. And what is that?

9 A. The Congressional Record.

10 MS. SCHESNOL: If we can please press play again,
11 and then pause at 2 minutes and 19 seconds.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: At 2 minutes, 19 seconds we have
14 paused.

15 BY MS. SCHESNOL:

16 Q. And can we see Mike Pence in this frame of the video?

17 A. Yes. He's towards the bottom left-hand corner.

18 Q. Is he the individual I have circled in blue?

19 A. That is him.

20 MS. SCHESNOL: Your Honor, may the record reflect
21 that I have circled an individual that I think most of us
22 know to be Mike Pence in the frame, wearing a mask, in the
23 lower left-hand portion.

24 BY MS. SCHESNOL:

25 Q. And is Mike Pence there to preside over the electoral

1 certification of the 2020 presidential election?

2 A. He is.

3 MS. SCHESNOL: If we can press play again, and
4 stop at 3 minutes and 2 seconds.

5 (Whereupon, the video was published.)

6 MS. SCHESNOL: We have stopped at 3 minutes and
7 2 seconds.

8 BY MS. SCHESNOL:

9 Q. Is this Vice President Mike Pence presiding over the
10 proceedings?

11 A. It is.

12 MS. SCHESNOL: We can press play again and pause
13 it at 3 minutes and 42 seconds.

14 (Whereupon, the video was published.)

15 MS. SCHESNOL: We have paused the video at
16 3 minutes and 42 seconds.

17 BY MS. SCHESNOL:

18 Q. Can you explain why Mike Pence gaveled out this Joint
19 Session?

20 A. That was one of those moments where we discussed
21 earlier, where the process is to go forward and there will
22 be no recesses unless there was an objection on a ballot;
23 and one of the ballots there was an objection on. So at
24 this point, like he said, the two houses will retire to
25 their respective houses; and they will go back and go

1 forward on the objection. They have up to two hours to
2 debate on the objection, and then they have to move forward
3 on it from there.

4 Q. So does that mean the 100 senators that had walked from
5 the Senate side to the House side, as you described, now
6 have to shlep back to the Senate side?

7 A. That is correct.

8 MS. SCHESNOL: Can you please press play again.
9 And we'll pause it at 4 minutes, 20 seconds.

10 (Whereupon, the video was published.)

11 MS. SCHESNOL: We have paused the video at
12 4 minutes and 20 seconds.

13 BY MS. SCHESNOL:

14 Q. And where are we now at this point?

15 A. This is a picture of the Senate Floor.

16 Q. And Michael Pence is presiding over -- over the
17 proceedings again?

18 A. That is correct.

19 Q. And is this so that each house can separately debate the
20 objection?

21 A. That is correct.

22 MS. SCHESNOL: Okay. Please press play again; and
23 we'll pause at 5 minutes and 26 seconds.

24 (Whereupon, the video was published.)

25 MS. SCHESNOL: Okay. We have paused the video at

1 5 minutes and 26 seconds.

2 BY MS. SCHESNOL:

3 Q. Who was just speaking? And who is sitting in that
4 center chair at the, sort of, highest tier of the dais?

5 A. Well, the Senator they were showing that was speaking
6 was Senator Lankford from Oklahoma. And the person in the
7 chair is Senator Grassley from Iowa.

8 Q. So why -- we see Senator Grassley here, at 5 minutes and
9 26 seconds. And was Senator Grassley presiding over the
10 Senate at this point, which we have marked at 2 p.m. --
11 2:13 p.m.?

12 A. For that very brief second, yes.

13 Q. Okay. And why was Senator Grassley presiding over the
14 Senate instead of Mike Pence?

15 A. Just right before this scene, the Vice President was
16 removed from the Senate Floor.

17 Q. Why was -- why was Vice President Pence removed from the
18 Senate floor?

19 A. We were getting reports that there were breaches outside
20 of the designated areas and then, also, they were
21 breaching -- the crowd that came from outside was starting
22 to breach into the building, breaking in through windows.
23 So we knew we had to start making a plan to protect the
24 Senate. And the Secret Service, who was there also, grabbed
25 the Vice President, removed him from the Senate Floor.

1 And then, at this point, Senator Grassley assumed
2 the chair and put the Senate in recess to put us in a stall
3 mode; and then he -- his team comes in and removes him.

4 Q. Okay. And where we have paused, at 5 minutes and 26
5 seconds, can we see you in this still frame?

6 A. I am towards the upper left corner, on that blue square.

7 Q. (Indicating.) Is that you?

8 A. Yes.

9 MS. SCHESNOL: Your Honor, may the record reflect
10 that I have circled Officer Gazelle, the person to the
11 left-most part of this still frame.

12 THE COURT: Let the record so reflect.

13 MS. SCHESNOL: Thank you.

14 BY MS. SCHESNOL:

15 Q. You mentioned that people were starting to break in the
16 building. How were you hearing that?

17 How did you know that?

18 A. Police officers, we all carry a radio, even the
19 plainclothes agents and officers. I have an earpiece -- if
20 I can show it (demonstrating).

21 This earpiece I have in my ear the whole time
22 we're working. And I leave my radio on "scan," which means
23 it scans all the channels. So I was getting information
24 from the other channels and the other officers who were
25 talking about the different ways the building was being

1 breached, where people were found in places they didn't
2 belong; so we knew then we had a problem. So that's -- so
3 we started moving forward to protect the senators and the
4 occupants.

5 Q. Who actually removed Vice President Pence?

6 Without naming names, what agency?

7 A. The Secret Service.

8 MS. SCHESNOL: Can you press play, and just go to
9 5 minutes and 35 seconds.

10 (Whereupon, the video was published.)

11 MS. SCHESNOL: We have paused at 5 minutes and
12 35 seconds.

13 BY MS. SCHESNOL:

14 Q. Did this depict what you were just describing, where
15 Senator Grassley's team came in and started escorting him
16 out?

17 A. Yes.

18 Q. And in this frame, in 5:35, it looks like you have moved
19 from the left and you are moving more towards the center of
20 the screen.

21 Is that what you are actually doing? Have I
22 described that accurately?

23 A. Yes, you have.

24 MS. SCHESNOL: So if we can play for just another
25 three seconds, and stop at 5:38, please.

1 (Whereupon, the video was published.)

2 BY MS. SCHESNOL:

3 Q. At 5:38, you now seem to be in the place that earlier
4 Vice President Pence was, then Senator Grassley.

5 What are you doing at this point in time where we
6 have paused the video?

7 A. Well, at this time the Senate is in recess and we are
8 removing the leadership from the floor. We are locking down
9 the Senate Chamber at this point, and I am assuming command
10 of the floor of the Senate.

11 Q. Have you ever assumed command of the floor of the Senate
12 before?

13 A. In rare occasions. I have done it three times.

14 Q. Any ever an occasion such as this?

15 A. Not such as this.

16 Q. You actually took the gavel and gaveled out the Senate?

17 A. I did not gavel out the Senate. I did gavel -- I did
18 hit the gavel to get control of the Senate.

19 Q. So your usual spot in the Senate, is it -- is your usual
20 spot where you are depicted here where we have paused the
21 video?

22 A. No. It's not.

23 Q. And what was your plan of what to do next at this point?

24 A. At this point, we're trying to settle down the remaining
25 members of the Senate. We're establishing communications

1 with our headquarters, letting them know what we have going
2 on here -- who is here, who is left, who were missing.
3 We're just -- we're doing a head count, for lack of a better
4 term.

5 And I am trying to remain -- make the Senate
6 remain calm, and give them instructions of what we're going
7 to do or what we possibly may have to do.

8 Q. Is that what you mean by "settle down," making sure
9 everyone remained calm?

10 A. Yes.

11 Q. Did you provide some type of evacuation instructions --
12 you and your team?

13 A. Not at that point because we were still waiting to see
14 what our situation was, if it was better to stay in the
15 chamber or exit the chamber.

16 Q. At some point, did you and other Capitol Police officers
17 have to make the determination to evacuate the Senate
18 Chamber?

19 A. We did.

20 Q. And can you tell us about that process?

21 A. So at this point we started actually -- at one point, we
22 started actually hearing people outside the chamber making
23 noise, yelling, screaming.

24 Q. And by "people" --

25 A. The crowd that -- the crowd that came in from outside.

1 The protesters, rioters, they got in. They breached the
2 building. They surrounded parts of the chamber.

3 So, at this point, a decision was made to remove
4 the senators out of the chamber and take them to another
5 holding area.

6 Q. And was anything done to secure the various doors that
7 lead into the Senate Chamber?

8 A. There were a lot -- all the doors were locked on the
9 second level. And there is another entity that works with
10 the Capitol Police called the United States Senate
11 Doorkeeper's Office; one of the doors was failed to be
12 locked, and that's how they breached the chamber.

13 Q. And by "they," who you mean?

14 A. The rioters got in through that door, jumped down from
15 the second level, which is the gallery level, onto the
16 floor, and were able to unlock the existing doors around the
17 Senate Chamber.

18 Q. How far of a drop is that, if you know?

19 A. Probably 15 feet, hanging from -- if you hang from it,
20 it's probably about a ten-foot drop.

21 Q. Does the Capitol Police have any security measures in
22 place where you plan for emergencies and have plans of
23 action of what you would do in -- if there is any type of an
24 emergency?

25 A. We do have many plans in place for different events.

1 Ever since 9/11, we have had to do several chamber drills
2 which exist for a multitude of scenarios from invasion to
3 the chamber, to airplanes in the area, to active shooters.

4 Q. When the senators did evacuate the Senate Chamber, did
5 someone bring those ballot bags or boxes that you showed us
6 earlier, were those secured?

7 A. They were. They were brought to the other holding area,
8 along with some other considered precious items of the
9 Senate.

10 Q. And when you and other Capitol Police officers were
11 evacuating the Senate, did you feel that that had to be done
12 imminently?

13 A. Yes.

14 Q. And who was the last person to leave the Senate Chamber
15 with the remaining members and staff?

16 A. That would be me.

17 Q. And you made sure everyone got to a safe location?

18 A. Yes, I did.

19 Q. Without saying specifically where you evacuated members
20 and staff, did you stay within the Capitol complex?

21 A. Yes. We did.

22 Q. And was that for the duration of the time that the
23 Senate was in recess?

24 A. That's correct.

25 MS. SCHESNOL: If we could please press play

1 again, and then we'll pause it at 5 minutes and 55 seconds.

2 (Whereupon, the video was published.)

3 MS. SCHESNOL: We have paused at 5 minutes and
4 55 seconds.

5 BY MS. SCHESNOL:

6 Q. Are we back on the House side of the Capitol?

7 A. Yes. This is the House side.

8 Q. And does it appear that the House is still in session?

9 A. They are.

10 MS. SCHESNOL: Please press play again, pausing at
11 6 minutes and 40 seconds.

12 (Whereupon, the video was published.)

13 MS. SCHESNOL: So we have paused at 6 minutes and
14 42 seconds.

15 BY MS. SCHESNOL:

16 Q. Does it appear that people are leaving the House
17 Chamber?

18 A. Yes. At this point the House leadership was being
19 removed from the floor.

20 Q. Is that for their safety, the same way Senate leadership
21 was removed?

22 A. Yes. It's our protocols to remove -- to separate the
23 leadership from the body.

24 Q. But it appears that the House itself -- well, while
25 leadership has removed, they have not gone into recess; is

1 that correct?

2 A. That's correct.

3 MS. SCHESNOL: If we can please play from this
4 point to 7 minutes and 45 seconds.

5 (Whereupon, the video was published.)

6 MS. SCHESNOL: We have paused the video at
7 7 minutes and 45 seconds.

8 BY MS. SCHESNOL:

9 Q. And we just heard the individual say, at 2:29 p.m., that
10 the House will be in recess.

11 Can you explain to us what does that mean, to be
12 in "recess"?

13 A. That's where they -- to be in recess means to put a stop
14 to the business at hand.

15 Q. Was Congress able to continue the electoral vote while
16 the senators and the members of the House of Representatives
17 were in recess and removed from their respective chambers?

18 A. They were not.

19 MS. SCHESNOL: If we could please press play,
20 again, pausing at eight minutes into the video.

21 (Whereupon, the video was published.)

22 MS. SCHESNOL: The video has been paused at
23 eight minutes, 2:44 p.m.

24 BY MS. SCHESNOL:

25 Q. Can you please explain what we're seeing at this point?

1 A. So the House Chamber elected to stay and lock themselves
2 inside the chamber, so they barricaded the doors and took
3 tactical positions.

4 Q. What do you mean by "tactical positions"?

5 A. They're taking positions out of the way of the doorways,
6 with their weapons raised at the doors.

7 MS. SCHESNOL: Please press play. And we'll pause
8 again at 8 minutes and 25 seconds.

9 (Whereupon, the video was published.)

10 MS. SCHESNOL: At 8 minutes and 26 seconds the
11 video has been paused.

12 BY MS. SCHESNOL:

13 Q. And what, if anything, can we see in this upper gallery
14 view?

15 A. So this right here (indicating), there -- because of the
16 COVID measure that were taken, the members were spread
17 throughout the whole chamber. Normally, they just sit in
18 the seats; but they were put in the galleries and all
19 throughout the chamber. A lot of members are actually
20 sitting and hiding down between the seats and the floor of
21 the House galleries at this point.

22 Q. And so just to be clear, the "gallery" is that upper
23 section; is that correct?

24 A. That is correct.

25 Q. Normally, if it weren't COVID, members, if I heard you

1 correctly, would not be up in that gallery section, they
2 would be in their seats on the floor?

3 A. That is correct.

4 Q. If it wasn't COVID, who would normally be up in that
5 gallery section, in the upper deck so to speak?

6 A. The public would have been able to come in and view what
7 was going on, and the press would be in the back -- the part
8 you see right here (indicating), to my right of the screen,
9 is where the press takes their notes of the sessions.

10 Q. And so we saw that you and your fellow Capitol Police
11 officers evacuated the Senate Chamber. But here, in the
12 House Chamber, members are actually still in the chamber.

13 And so how long did -- if you know, did they --
14 did they have to stay there all afternoon? Were they
15 eventually evacuated? What happened with them?

16 A. Honestly, I do not know exactly how long they stayed in
17 there. Like I said, I was on the Senate side; so I was
18 dealing with a bunch of other issues on that side. But I
19 don't -- I really can't give a good answer on how long they
20 stayed in the House Chamber.

21 Q. Were all members of the House eventually evacuated from
22 this House Chamber?

23 A. At one point, yes.

24 MS. SCHESNOL: If we could please press play, and
25 go to 8 minutes and 55 seconds.

1 (Whereupon, the video was published.)

2 BY MS. SCHESNOL:

3 Q. At 8 minutes 55 seconds, what are we seeing here?

4 A. We are seeing people on the Senate Floor who do not
5 belong there.

6 Q. Can you expand on that?

7 A. Well, the Senate Floor -- the Senate Rules Committee
8 makes up the rules of the Senate Floor, and who is allowed
9 to occupy it and who is allowed not.

10 Senators and key staff that has to be vetted
11 through the Sergeant at Arms office are permitted on the
12 second floor, along with the officers of the Senate.

13 There is also dress codes for the Senate Floor at
14 all times. So these gentlemen are people who do not have
15 suits; they're wearing hats; they're taking pictures. There
16 is no electronics allowed on the Senate Floor. Even the
17 senators are not allowed to use their own phones or
18 BlackBerrys, or any kind of devices.

19 Q. And does it appear that at least -- that one individual
20 in the orange-colored hat might be looking at some
21 documents?

22 A. Yes.

23 MS. SCHESNOL: Please press play again. And we're
24 going to go to 9 minutes and 15 seconds.

25 (Whereupon, the video was published.)

1 MS. SCHESNOL: Pausing at 9 minutes 15 seconds.

2 BY MS. SCHESNOL:

3 Q. Are these individuals allowed on the Senate Floor or at
4 the dais?

5 A. No. They are not.

6 Q. And what, if any, security issue does this pose?

7 A. Well, they have come onto the floor; they have not been
8 checked through any kind of security. We don't know what
9 kind of weapons they could have; we don't know what they
10 have on them. So they came into the building, they weren't
11 searched or screened, so it leads to a whole host of
12 problems and security -- security issues.

13 MS. SCHESNOL: If we can please press play to
14 9 minutes and 45 seconds.

15 (Whereupon, the video was published.)

16 BY MS. SCHESNOL:

17 Q. I'm assuming if there is a dress code, horns and face
18 paint are not part of that?

19 A. Definitely not.

20 MS. SCHESNOL: Pausing at 9 minutes and 45
21 seconds.

22 BY MS. SCHESNOL:

23 Q. What have -- what are we watching happen here with law
24 enforcement?

25 A. At this point it's another agency, Metropolitan is

1 coming in to -- it looks like -- to start pushing people off
2 the Senate Floor.

3 Q. So Metropolitan Police assisted Capitol Police on
4 January 6th?

5 A. Yes. They did.

6 MS. SCHESNOL: Please press play again until the
7 10-minute mark.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: We have paused at 10:01. And the
10 time on the screen is 8:06 p.m.

11 BY MS. SCHESNOL:

12 Q. Is that when Congress came back to -- or at least the
13 Senate side came back to resume the proceedings, the
14 Electoral vote count?

15 A. That's correct. The Senate came back at that time.

16 MS. SCHESNOL: Please press play until 11 minutes.

17 (Whereupon, the video was published.)

18 BY MS. SCHESNOL:

19 Q. Can we see in this video, at approximately 10 minutes
20 and 15 seconds, that the House came back into session at
21 9 minutes and 2 seconds?

22 A. That's correct.

23 Q. I'm sorry. 9:02 p.m.?

24 A. That's correct.

25 MS. SCHESNOL: Pause the video at 11 minutes.

1 BY MS. SCHESNOL:

2 Q. What are we seeing here?

3 A. Right here, the Joint Session has come back into
4 session, and Mike -- Vice President Pence is giving the
5 election results of the counting of the electoral ballots.

6 Q. And what time did this happen?

7 A. 3:40 in the morning.

8 Q. So it's actually January 7th by the time the 2020
9 presidential election was actually certified?

10 A. That's correct.

11 MS. SCHESNOL: Please press play again, until
12 11 minutes and 25 seconds.

13 (Whereupon, the video was published.)

14 BY MS. SCHESNOL:

15 Q. At 11 minutes and 24 seconds, what time of day is it?

16 A. This is 3:44 a.m. in the morning, on January 7th.

17 Q. And is that when Congress, the Joint Session, could
18 finally wrap up the business of counting the electoral
19 votes?

20 A. That's when it was dissolved, yes.

21 Q. So is it correct -- we talked about the Senate resuming
22 at a little after 8:00 p.m. and the House resuming a little
23 after 9:00 p.m.

24 Could these two bodies respectively not resume the
25 business of counting electoral votes -- why could they not

1 begin that business again until 8 and 9:00 p.m.

2 respectively?

3 A. Well, first of all, they were separated, and they must
4 work together as one body to move forward in the process.

5 And, two, the building was not under -- was not secure, and
6 we could not put them back into an insecure environment.

7 Q. And when you say the building wasn't secure, what
8 measures needed to take place to secure the building before
9 Congress could begin their business again?

10 A. We had to make a thorough and systematic check of the
11 whole building. So we had to make sure that every area that
12 we were supposed to be in control of that we had control of
13 again.

14 Q. And when you say the "building," are you referring to
15 the physical building of the Capitol itself, or does it go
16 beyond just the building?

17 A. Mainly the building, but we did make sure that all of
18 the other avenues leading to the building from the other
19 chambers -- from the other buildings that connect to it were
20 also cleared.

21 Q. What about -- yesterday we looked at a map with a red
22 perimeter around it, I believe it's Exhibit 204. We looked
23 at it yesterday.

24 Did everything within that restricted perimeter
25 need to be secured before the Joint Session could begin

1 again?

2 A. Yes, because we had to make sure there was no kind of
3 devices or any kind of weapons throughout that area of the
4 grounds.

5 Q. So is it fair to say that if anyone was on the grounds,
6 even if they weren't physically inside the building, they
7 needed to be removed before -- before Congress could proceed
8 with the counting of the votes?

9 A. That is correct.

10 MS. SCHESNOL: So can we pull up Exhibit 403,
11 please.

12 If we could go about two minutes into this video.
13 And we can just -- we don't have to play it, we can just
14 pause it.

15 BY MS. SCHESNOL:

16 Q. Do you recognize this as CCTV?

17 A. Yes.

18 MS. SCHESNOL: And this has already been admitted,
19 Your Honor.

20 THE COURT: And what was the number, 403?

21 MS. SCHESNOL: 403.

22 BY MS. SCHESNOL:

23 Q. So it's 4:12 p.m. in the afternoon. Could Congress
24 resume while the people we see in Exhibit 403 -- where we
25 have paused it at just about two minutes, could Congress

1 resume while this was going on?

2 A. No, they could not.

3 Q. And do you see that in this screen there is an
4 individual with a yellow circle around him or her?

5 A. I do.

6 Q. Do you know who that person is?

7 A. I do not.

8 Q. It's not someone, as far as you know, that you have met?

9 A. No.

10 Q. Not someone that you have interviewed or talked to as
11 far as you know?

12 A. No, I have not.

13 Q. As far as you know, the person circled in yellow didn't
14 go inside the Capitol Building beyond the area that we see
15 in Exhibit 403?

16 A. I am not aware of any actions they may have taken.

17 Q. And we saw in the video, 107, people on the Senate Floor
18 who you said didn't belong there, correct?

19 A. That is correct.

20 Q. And as far as you know, the person circled in yellow
21 here was never on the Senate Floor as far as you know?

22 A. As far as I know.

23 Q. Regardless, could Congress reconvene while the person
24 circled in yellow was in this location on the Capitol
25 grounds?

1 A. They would not be able to move forward.

2 Q. Yesterday, when we were looking at the map of the
3 Capitol on the basement level and you were telling us about
4 the doors in and out of the lower west terrace, what we're
5 seeing on Exhibit 403 -- where is what we see right now in
6 Exhibit 403 in relation to the lower west terrace doors that
7 you talked about yesterday?

8 A. That's actually the stairwell that leads to the lower
9 west terrace door.

10 Q. So approximately how far is the person circled in yellow
11 from the doors to the Capitol?

12 A. About a little over ten feet.

13 Q. I believe you told us yesterday that those lower west
14 terrace doors are not doors that even staff members at the
15 Capitol use to enter the building.

16 Do I remember that correctly?

17 A. That is correct.

18 Q. And if the lower west terrace doors were to be opened
19 for a considerable amount of time, would there be some
20 audible sound one would hear?

21 A. There is an alarm -- there is an alarm on the doors.
22 And we also have, as you can see, video cameras that are
23 facing and monitoring it 24 hours a day.

24 Q. Did the people that we see in Exhibit 403, including the
25 person circled in yellow, go through proper security

1 screening that we discussed yesterday?

2 A. Not at this point.

3 Q. And would anyone on January 6th who was a member of the
4 public gone through security screening on January 6th?

5 A. That day, only the personnel that was permitted to be in
6 the building were the staff and members. The building was
7 closed to the rest of the nation.

8 So, yes, nobody -- anybody in there other than the
9 staff would not have been screened to get in.

10 Q. And the doors that we have been talking about here, at
11 this lower west terrace tunnel, how many sets of doors are
12 there into the building at this point?

13 A. It's a double set of doors.

14 Q. And if individuals had -- who were unauthorized had
15 gotten through those double set of doors, can you describe
16 what part of the Capitol they would have been able to
17 access?

18 A. That would have been considered the basement level of
19 the U.S. Capitol, and that puts you right in at a very
20 critical area of the Capitol Building because those hallways
21 lead to areas to the other buildings, and it puts you right
22 underneath both the Senate and House Chambers.

23 Q. If Congress had not had to have been evacuated, if there
24 had not been a mob of unauthorized people in the building
25 and grounds, would Congress have been in the proceeding of

1 counting the electoral votes at 4:12 p.m.?

2 A. Yes, they would.

3 Q. And what, if any, security concerns, as a Capitol Police
4 officer for nearly 32 years, do you have when you see an
5 image such as what we're looking at in Exhibit 403?

6 A. I mean, you have a bunch of -- you have a bunch of
7 rioters -- protestors here -- who are coming here, not
8 checked. You don't know what they have on them or what
9 their -- what their intentions are. And, you know, you have
10 to make sure that this building and its occupants are safe
11 from any kind of harm or nefarious activity.

12 MS. SCHESNOL: Can you please pull up Exhibit 601,
13 and pause it at -- it's not admitted yet, 601. We're still
14 laying proper foundation so that Officer Gazelle can see it
15 at approximately the 14-, 15-second mark.

16 (Whereupon, the video was published.)

17 MS. SCHESNOL: Please keep playing. I will let
18 you to know in a couple of seconds.

19 Pausing here, Exhibit 601 at 18 seconds, which has
20 not yet been admitted.

21 BY MS. SCHESNOL:

22 Q. Do you recognize from what you have seen -- or let us
23 know if you need to see more -- where Exhibit 601 took
24 place?

25 A. This is the west side of the Capitol Building.

1 Q. Can you tell what day this video was taken?

2 A. January 6th.

3 Q. Of what year?

4 A. 2021.

5 Q. Again, you don't know the individual pictured in this
6 video; is that correct?

7 A. That's correct.

8 Q. I believe yesterday you mentioned that you have worked
9 as a Capitol Police officer for nearly 32 years and have
10 experienced five previous Electoral College certifications.

11 Do I remember that correctly?

12 A. That's correct.

13 Q. Was the January 6, 2021, certification the same as those
14 previous proceedings that you had attended?

15 A. Not by any means.

16 Q. How so?

17 A. Well, we had a disruption; a breach of the building. It
18 totally, you know, broke down the process of -- the
19 electoral process; so we had to take measures to protect the
20 occupants and the staff inside the building. It caused a
21 major delay in the counting process for the president.

22 Q. In your nearly 32 years as a Capitol Police officer,
23 have you ever seen a disruption anything like what you
24 experienced on January 6, 2021?

25 A. Not on this magnitude.

1 MS. SCHESNOL: Thank you.

2 May I have a moment?

3 THE WITNESS: Yes.

4 THE COURT: You are jumping the gun. She's not
5 finished yet; she is just checking.

6 MS. SCHESNOL: No further questions. Thank you.

7 THE COURT: Thank you.

8 Now is your time.

9 MS. O'NEILL-GREENBERG: May I inquire?

10 THE COURT: Yes. Please do.

11 CROSS-EXAMINATION

12 BY MS. O'NEILL-GREENBERG:

13 Q. Good afternoon -- or good morning --

14 A. Good morning.

15 Q. -- Officer Gazelle. How are you?

16 A. Fine. Thank you.

17 Q. Yesterday afternoon, on direct, you were speaking about
18 the perimeter that was set up around the Capitol for
19 January 6th. I just want to ask you a couple of questions
20 about that.

21 A. Okay.

22 Q. It was the Capitol Police and Secret Service together
23 that determines that perimeter; is that right?

24 A. That is not correct. The Capitol Police board
25 determines the perimeter.

1 I am sure they're in conjunction with the Secret
2 Service; but the Capitol Police Board is the final say over
3 our perimeters.

4 Q. And you are a member of Capitol Police, but you weren't
5 involved in physically setting up the perimeter that day,
6 correct?

7 A. No, I was not.

8 Q. And then you arrived for work at the Capitol, on
9 January 6th, around 8:30 in the morning?

10 A. That is correct.

11 Q. And then you stayed in the building working all morning;
12 is that right?

13 A. Yes.

14 Q. And then you remained in the building throughout the
15 time that the House -- or the Senate and then the House went
16 into recess; is that correct?

17 A. That's correct.

18 Q. And that was -- I am estimating, but that was ultimately
19 around 2:30 in the afternoon; is that right?

20 A. Can you rephrase that?

21 Q. So the Senate went into recess around 2:15; is that
22 right?

23 A. That's correct, yes.

24 Q. And the House went into recess at around 2:30?

25 A. Correct.

1 Q. And then the recesses lasted until 8 for the Senate; is
2 that right?

3 A. That's correct.

4 Q. And 9 for House of Representatives?

5 A. That's right.

6 Q. And you stayed in the Capitol complex during that time;
7 right?

8 A. I was the whole time, yes.

9 Q. You stayed inside the building?

10 A. Not the building itself, but the complex.

11 Q. Okay. And you didn't leave?

12 A. I never left the grounds.

13 Q. And during that time -- you were shown an exhibit,
14 Exhibit 403, that was showing the lower west terrace
15 staircase and area around 4 in the afternoon; is that right?

16 A. That's correct.

17 Q. You weren't physically present in that spot at that
18 time, right?

19 A. Not particularly right there, but I was in that area.

20 Q. Okay. But you weren't in that lower west terrace
21 tunnel, correct?

22 A. I was, around that time.

23 Q. At 4:12?

24 A. Around 4:15.

25 Q. Okay. Were you actually outside?

1 A. No. I was not outside the building.

2 Q. Okay. So you were inside the building?

3 A. Correct.

4 Q. Okay. And the people that are shown in that -- in that
5 403 exhibit that shows the outside of the lower west terrace
6 tunnel -- those people in that video, you don't know them,
7 right?

8 A. I do not.

9 Q. And that video was something that has been shown to you
10 after the fact by the -- is that right? You watched it
11 after the fact?

12 A. Well, I have seen the video before. We actually brought
13 monitors -- monitors in, so we were able to witness live,
14 real time, of the event that was going on when we were in
15 the other location.

16 Q. That particular video was something that was shown to
17 you by the prosecutor; is that right?

18 A. Yes.

19 Q. Okay. And those -- all those people, the protesters
20 outside that are depicted in that video -- you don't know if
21 they know each other or not, right?

22 A. I do not know.

23 Q. And you didn't do any investigation at all in this case;
24 is that right?

25 A. No investigations, no.

1 Q. You never interviewed or spoke to Mr. Gillespie?

2 A. I have not.

3 Q. You don't know him at all?

4 A. Not at all.

5 Q. And he was not depicted -- in any of the pictures that
6 depict people inside the Capitol Building, he is not in any
7 of those pictures or videos, correct?

8 A. None that I saw.

9 MS. O'NEILL-GREENBERG: Thank you.

10 No further questions.

11 THE COURT: Any redirect?

12 MS. SCHESNOL: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. SCHESNOL:

15 Q. Exhibit 403 that we just looked at, that was from CCTV,
16 correct?

17 A. Correct.

18 Q. And so you were explaining that you had -- you and other
19 Capitol Police officers were watching video feeds in real
20 time.

21 Did I understand that correctly?

22 A. Yes.

23 MS. SCHESNOL: No other questions. Thank you.

24 THE COURT: All right. You are excused,
25 Officer Gazelle. Thank you. You can get back to work.

1 All right. Who is the next government witness?

2 MS. SCHESNOL: Agent Raymond Adams.

3 THE COURT: Agent Adams, please step forward for
4 administration of the oath.

5 (RAYMOND ADAMS, Government witness, sworn.)

6 THE COURT: Good morning, Agent.

7 THE WITNESS: Good morning, Your Honor.

8 THE COURT: You may remove your mask.

9 THE WITNESS: Thank you.

10 DIRECT EXAMINATION

11 BY MS. SCHESNOL:

12 Q. Good morning.

13 A. Good morning.

14 Q. Please state your name.

15 A. My name is Raymond Adams.

16 Q. Can you spell your last name for the record.

17 A. A-D-A-M-S.

18 Q. Are you employed?

19 A. Yes, I am.

20 Q. How so?

21 A. I am a special agent of the Federal Bureau of
22 Investigation.

23 Q. Can we shorthand "Federal Bureau of Investigation" as
24 "FBI"?

25 A. Yes.

1 Q. How long have you been with the FBI?

2 A. I have been with the FBI for over 19 years.

3 Q. And what did you do before that?

4 A. Before joining the FBI, I graduated from law school,
5 then joined the United States Marine Corps.

6 Q. Are you still in the Marines?

7 A. I am. I am a reservist.

8 Q. What is your rank in the Marines?

9 A. I am a brigadier general.

10 Q. And I believe you said your position with the FBI is a
11 special agent; is that correct?

12 A. That is correct.

13 Q. Can you tell us -- how long have you been in that
14 position?

15 I'm sorry if you have already mentioned it.

16 A. As a special agent, 19 years. I have served in
17 supervisory roles as well, but I am currently a special
18 agent investigator.

19 Q. Can you tell us, generally, what kind of duties and
20 responsibilities come along with being a special agent with
21 the FBI?

22 A. Yes. In the process of conducting our investigations we
23 conduct interviews, we gather evidence, we conduct
24 surveillance. We partner with our federal, state, and local
25 law enforcement colleagues. We search the internet for

1 evidence. We sometimes get leads from other field offices,
2 FBI field offices, with information that might be helpful to
3 our investigations. Things along those lines.

4 Q. Do you conduct surveillance in person ever?

5 A. Yes.

6 Q. Do you ever gather surveillance videos?

7 A. Yes.

8 Q. And sometimes you're asked to engage in all kinds of
9 not-so-glamorous tasks as well; is that accurate?

10 A. That is accurate.

11 Q. I want to direct your attention to January 6, 2021.

12 Are you familiar with that date?

13 A. Yes, I am.

14 Q. And are you familiar with an event that was going on on
15 January 6th, 2021, near the White House in Washington, D.C.?

16 A. Yes, I am.

17 Q. And what was going on near the White House that day?

18 A. There was a rally for the former President, President
19 Trump, at which he spoke; prior to President Trump speaking,
20 a number of other speakers -- to include elected
21 politicians, interested parties in the President's
22 reelection. People like that.

23 Q. And approximately how long did this rally last?

24 A. That rally lasted over four hours.

25 Q. And from your -- have you engaged in investigation

1 specifically related to events of January 6, 2021?

2 A. Yes.

3 Q. In the course of that investigation, have you come to
4 learn that many -- but not all of the people who went to
5 that rally -- also went to the Capitol?

6 A. Yes.

7 Q. So we're going to take a hard left turn, a neck breaking
8 non sequitur, and ask you about a grocery store.

9 Are you familiar with Safeway?

10 A. Yes, I am.

11 Q. What is Safeway?

12 A. Safeway is a chain of grocery stores.

13 Q. Are there Safeway stores within Washington, D.C.?

14 A. Yes, there are.

15 Q. Approximately how many?

16 A. Twelve.

17 Q. In preparation for your testimony today, have you had
18 the opportunity to review Exhibits 501, 502, 503, and 504?

19 A. Yes.

20 Q. As well as Exhibit 50 -- excuse me, strike that.

21 MS. SCHESNOL: Can we please pull up for the
22 witness only, because it has not yet been admitted,
23 Exhibit 502.

24 BY MS. SCHESNOL:

25 Q. Are you familiar with Exhibit 502?

1 A. Yes, I am.

2 Q. What is Exhibit 502?

3 A. Exhibit 502 is an email from a manager with the Safeway
4 grocery chain telling other managers that -- due to a curfew
5 imposed because of the events of January 6th, that all of
6 the Safeway stores within the District of Columbia were
7 going to close at 4 p.m. on January 6th.

8 Q. And in reviewing Exhibit 502, this email you have
9 described for us, does 502 appear to be a fair and accurate
10 depiction of this email?

11 A. Yes.

12 Q. Does this email also indicate that -- because the stores
13 are closing -- staff will not have to stay and work
14 overnight to do the overnight things that grocery store
15 workers do?

16 A. Yes. The email was very clear that the safety of the
17 employees came first; and that because of the curfew and the
18 situation on January 6th that they would be closing, and
19 there would be no overnight crew.

20 Q. Moving on to Exhibit 503.

21 Have you reviewed Exhibit 503 prior to testifying
22 here today?

23 A. Yes.

24 Q. And can you explain to us what Exhibit 503 is?

25 A. 503 is information from Safeway that relates to their

1 projected earnings for a particular day, the earnings on
2 that day a year ago, and what the actual earnings were on
3 that day.

4 Q. Does Exhibit 503 have that information that you just
5 described specified for Wednesday, January 6, 2021, on
6 page 2 of Exhibit 503?

7 A. Yes, it does.

8 Q. And does Exhibit 503, at page 2, indicate that, in fact,
9 Safeway did have a loss in sales revenue on January 6, 2021?

10 A. Yes. In fact, every store within the District was in
11 the red, meaning they lost money that day.

12 Q. And from your review of Exhibit 503, does it appear to
13 be a fair and accurate depiction of these projected sales,
14 earnings, and/or ultimate loss?

15 A. Yes.

16 Q. Directing your attention to Exhibit 504, have you had
17 the opportunity to review Exhibit 504 prior to today?

18 A. Yes, I have.

19 Q. And what does Exhibit 504 -- what kind of information
20 does that encompass?

21 A. 504 describes shipments from Pennsylvania, regional
22 distribution centers, to the District of Columbia.

23 Q. And does Exhibit 504 indicate whether or not the
24 shipments could come into D.C. or not from Pennsylvania?

25 A. I don't --

1 Q. Let me rephrase that.

2 So Exhibit 504 indicates that shipments were
3 supposed to come into D.C. from Pennsylvania; is that
4 correct?

5 A. That is correct.

6 Q. And then, when we look at that in conjunction with
7 Exhibit 502, the email that the stores were closed and
8 everyone was going home, do those two -- right -- in
9 conjunction basically indicate there was no one at the
10 stores to unload these trucks, so they were not sent in from
11 Pennsylvania?

12 A. Yes.

13 Q. And then I am going to refer you back to Exhibit 501.

14 Are you familiar with Exhibit 501?

15 A. Yes, I am.

16 Q. What is Exhibit 501?

17 A. Exhibit 501 is a certificate of authenticity from
18 Safeway stating that the documents are, in fact, true and
19 correct.

20 Q. So Exhibit 501 specifically references what we have
21 marked for our trial purposes Exhibits 502, 503, and 504; is
22 that correct?

23 A. That is correct.

24 Q. And this is signed by the custodian of records for the
25 Safeway company?

1 A. Yes, it is.

2 MS. SCHESNOL: Your Honor, the government moves
3 for the admission of Exhibits 501 through 504.

4 MR. WATKINS: No objection.

5 THE COURT: Hearing no objection, government
6 Exhibits 501 through 505 will be admitted and may be
7 published.

8 MS. SCHESNOL: Just 504, Your Honor.

9 THE COURT: Not 505. All right. Sorry.

10 MS. SCHESNOL: I will double-check. I don't think
11 there is a 505.

12 THE COURT: You are right. Stops at 504.

13 (Government's 501 through 504, admitted.)

14 MS. SCHESNOL: Enough of that tangent, let's come
15 back to your work -- and, Your Honor, we are not going to
16 publish these to the jury at this time; they're admitted.
17 And if they want to review them...

18 THE COURT: Yes. Let me just give you some
19 indication of -- it may be puzzling to you why they are
20 putting this in. There are some jurisdictional issues
21 because we're in a federal court, and we have limited
22 jurisdiction. We have to show some interstate connection
23 for certain of the charges.

24 So this will become clear to you -- both in the
25 instructions, and I am sure in the closing arguments of

1 counsel -- where they tie together all of the little pieces
2 that you have seen, including the Safeway evidence. It will
3 become clear to you why it's being introduced, but it's for
4 a jurisdictional issue.

5 All right. Just so you are not thinking
6 Ms. Schesnol is crazy; she is not. All right. Thank you.

7 Please proceed.

8 MS. SCHESNOL: Thank you, Your Honor.

9 BY MS. SCHESNOL:

10 Q. So directing your attention to your investigations
11 regarding January 6, 2021.

12 Have you been involved, as a special agent with
13 the FBI, with the investigation of an individual by the name
14 of Vincent Gillespie?

15 A. Yes.

16 Q. And as part of your investigation into Vincent
17 Gillespie, did you use some of the same tools and techniques
18 that you have already described a little bit earlier in your
19 testimony?

20 A. Yes.

21 Q. And can you specify -- since each investigation is
22 unique, can you specify what specific tools and techniques
23 you and your FBI partners engaged in in the investigation of
24 Vincent Gillespie?

25 A. Many of the tools that I described earlier to include

1 interviews, collecting evidence, searching the internet for
2 potential evidence, partnering with our colleagues in
3 different field offices, conducting surveillance.

4 Q. And as part of the various tools and techniques, did
5 that also include viewing things that we have seen in court
6 today that include the cameras from the United States
7 Capitol Building?

8 A. Yes, that was a major part of the investigation.

9 Q. And what about body-worn cameras from members of the
10 Metropolitan Police Department?

11 A. Yes.

12 Q. I believe you might have already mentioned -- you used
13 the term "scouring the internet"; is that correct?

14 A. That's correct.

15 Q. So things that are found on the Internet, would it be
16 fair to categorize those as "open source"?

17 A. Yes.

18 Q. And with regard to Vincent Gillespie, did the FBI do
19 surveillance of him?

20 A. Yes, we did.

21 Q. And as part of that -- were you involved in that
22 surveillance?

23 A. Yes.

24 Q. And have you come to recognize what Vincent Gillespie
25 looks like?

1 A. Yes.

2 Q. Do you see him sitting in the courtroom today?

3 A. Yes, I do.

4 Q. Can you please describe where that person is sitting and
5 what that person is wearing?

6 A. He is sitting at the defense counsel table. He is
7 wearing a greenish-brownish colored sweater with a stripe
8 around the chest that looks like triangles, maybe seasonal
9 snowflakes; a little bit difficult to see from this angle.
10 He's wearing a collared shirt with white and a dark color
11 pattern on it.

12 Q. Are you a little bit color blind by any chance?

13 A. I am.

14 MS. SCHESNOL: Your Honor, may the record reflect
15 that Agent Adams has identified the defendant in court?

16 THE COURT: Let the record so reflect.

17 MS. SCHESNOL: Thank you.

18 BY MS. SCHESNOL:

19 Q. At some point, did the FBI obtain a search warrant for
20 the defendant's home?

21 A. Yes, we did.

22 Q. And was that issued by a federal judge?

23 A. Yes.

24 Q. Where does the defendant live?

25 A. He lives in a town called Athol, Massachusetts. Spelled

1 A-T-H-O-L.

2 Q. And what, if anything, pertinent was located when
3 Mr. Gillespie -- when the defendant's home was searched?

4 A. We found three items of significance for our
5 investigation. Those three items were a dark-colored
6 sweatshirt with the Berkshire Nautilus logo on the front and
7 the back. We found a backpack with the letters "MSI,"
8 Mike-Sierra-India, on the straps. And we found a folder
9 dated January 20 -- excuse me -- dated January 6th with
10 receipts from the D.C. metropolitan area.

11 Q. You mentioned something about Berkshire Nautilus on the
12 sweatshirt. What is Berkshire Nautilus?

13 A. Berkshire Nautilus is a small family-owned fitness
14 center in a town called Pittsfield, which is in the very far
15 western corner of Massachusetts.

16 Q. You have been at counsel table throughout trial; is that
17 correct?

18 A. That's correct.

19 Q. And have you been paying attention to the testimony and
20 the videos and other evidence admitted?

21 A. Yes, I have.

22 Q. With regard to the sweatshirt that you have described
23 being found in the defendant's home, did you see, in the
24 various photos and video exhibits, the defendant wearing
25 that sweatshirt at the Capitol on January 6, 2021?

1 A. Yes, I did.

2 Q. In some of those videos, at times, the defendant was
3 wearing some kind of knit hat on his head. Was a hat found
4 when his home was searched?

5 A. We did not locate a hat when we searched the house.

6 MS. SCHESNOL: Can we please pull up Exhibit 804
7 for Agent Adams?

8 BY MS. SCHESNOL:

9 Q. Agent Adams, can you see Exhibit 804 on the screen in
10 front of you?

11 A. Yes, I can.

12 Q. What is Exhibit 804?

13 A. 804 is that dark-colored sweatshirt I referred to
14 earlier with the Berkshire Nautilus logo. It's face up in
15 the photo, meaning that part that a person would wear on the
16 chest is facing up; and it's got the logo above the left
17 breast area.

18 Q. Where was this photo, Exhibit 804, taken?

19 A. This was taken inside the defendant's home.

20 Q. And is this exhibit, 804, a fair and accurate photograph
21 of what the sweatshirt looked like when it was found in the
22 defendant's home?

23 A. Yes, it is.

24 MS. SCHESNOL: Your Honor, the government moves
25 for the admission and publication of Exhibit 804.

1 MR. WATKINS: No objection.

2 THE COURT: Hearing no objection, 804 will be
3 admitted, and may be published.

4 MS. SCHESNOL: Thank you.

5 (Government's 804, admitted and published.)

6 BY MS. SCHESNOL:

7 Q. Agent Adams, showing you what's been marked for
8 identification as Exhibit 805, are you familiar with what
9 Exhibit 805 is?

10 A. Yes, I am.

11 Q. What is Exhibit 805?

12 A. 805 is the backpack I referred to earlier with the
13 letters "MSI" on the straps, and also on the backpack
14 itself.

15 Q. And in the various other exhibits that have been
16 admitted during trial, is the backpack that is shown in
17 Exhibit 805 -- was that visibly worn by the defendant on
18 January 6, 2021, at the United States Capitol?

19 A. Yes. It was visible.

20 Q. Where was this photograph -- Exhibit 805, where was this
21 taken?

22 A. This was taken inside the defendant's house, also,
23 during the execution of the search warrant.

24 Q. Is this exhibit a fair and accurate depiction of how the
25 backpack looked when it was found in the defendant's home?

1 A. Yes, it is.

2 MS. SCHESNOL: Your Honor, the government moves
3 for the admission and publication of Exhibit 805.

4 MR. WATKINS: No objection.

5 THE COURT: Hearing no objection, it may be
6 admitted, and it may be published.

7 MS. SCHESNOL: Thank you.

8 (Government's 805, admitted and published.)

9 BY MS. SCHESNOL:

10 Q. Showing you what's been marked for identification as
11 Exhibit 804 -- I'm sorry -- 806, I apologize -- are you
12 familiar with what 806 is?

13 A. Yes, I am.

14 Q. And what is Exhibit 806?

15 A. 806 is a folder the FBI discovered inside the
16 defendant's home during the execution of the search warrant.

17 Q. And is 806 a fair and accurate depiction of what this
18 folder and its contents looked like when the defendant's
19 home was searched?

20 A. Yes.

21 Q. What, if any, writing is depicted on that -- on the
22 folder itself?

23 A. There is writing on the label portion of the folder, the
24 part that jets up from the rest of the folder. It says:
25 Washington, D.C.-1/6/2020.

1 Q. And with regard to the year indicated on the folder, do
2 you have experience, as an FBI agent or just a human on this
3 planet, with when a year turns over and, perhaps, writing
4 the wrong year date?

5 Can you describe your experience with that?

6 A. Yes. Yes, particularly early in the year. January 6th
7 is less than a week into the new year, so it's common to
8 mistake the new year for the previous year.

9 Q. And with regard to the contents within this folder in
10 Exhibit 806, are there -- are there dates on the receipts
11 that were found in that folder?

12 A. Yes, there are. And those dates are from January of
13 2021.

14 Q. And what are some of the receipts for -- receipts and/or
15 what appears to be some kind of small card?

16 A. The card is a Metro card for public transportation in
17 the D.C. area on the Metro.

18 THE COURT: I am going to interrupt you for just a
19 second.

20 Why don't you move its admission before you start
21 going into such detail about the contents of something that
22 hasn't been admitted yet.

23 MS. SCHESNOL: Yes, Your Honor.

24 The government moves for admission and publication
25 of Exhibit 806.

1 MR. WATKINS: No objection.

2 THE COURT: Hearing no objection, it will be
3 admitted. And now, when the agent describes it, everybody
4 can see what he's talking about.

5 MS. SCHESNOL: Thank you, Your Honor.

6 THE COURT: It's admitted, and it may be
7 published.

8 (Government's 806, admitted.)

9 MS. SCHESNOL: And would be so kind as to zoom in
10 on the writing on the right portion of the folder. Is that
11 possible? Yes.

12 BY MS. SCHESNOL:

13 Q. Is that the "Washington, D.C.-1/6/2020" you have just
14 testified about?

15 A. Yes.

16 MS. SCHESNOL: And if you could be so kind as to
17 zoom in to the two receipts, and the card just above it.

18 Thank you.

19 BY MS. SCHESNOL:

20 Q. So you were describing what we see zoomed in here. Can
21 you please continue?

22 A. Yes. At the top of the blown-up portion of the image is
23 that Metro card I was describing. Below that, I see two
24 receipts, both dated January 6, 2021. One is at 9:30 in the
25 morning, one is at 9:44; and they're both from the Grosvenor

1 Metro Station.

2 Q. Thank you.

3 I want to turn your attention to Exhibit 902 and
4 903. These are video exhibits.

5 Are you familiar with exhibits -- we're showing
6 for you only 902. Are you familiar with Exhibit 902?

7 A. Yes, I am.

8 Q. Can you describe what Exhibit 902 is?

9 A. 902 consists of two videos. One, a closed-circuit fixed
10 camera, inside the lower west terrace tunnel at the
11 U.S. Capitol on January 6th.

12 The video in the upper right-hand corner is a
13 body-worn camera, also inside the lower west terrace tunnel,
14 also on January 6, 2021.

15 Q. And does Exhibit 902 appear to be a video that's
16 approximately 15 and a half minutes?

17 A. Yes, it does.

18 Q. And then the two videos that you have described, are
19 they occurring at or very close to the exact same time as
20 one another?

21 A. Yes, they are.

22 Q. Is Exhibit 902 actually a compilation of what has
23 previously been admitted as Government's Exhibits 402 and
24 701?

25 A. Yes.

1 Q. And then directing your attention to Exhibit 903, do you
2 recognize what Exhibit 903 is?

3 A. Yes.

4 MS. SCHESNOL: And if you could fast-forward maybe
5 just a couple of minutes into Exhibit 903.

6 BY MS. SCHESNOL:

7 Q. Can you describe what Exhibit 903 is?

8 A. 903 is very similar to the previous exhibit. It has
9 the -- on the lower portion of the screen, it has the fixed
10 video feed from the closed-circuit television camera at the
11 Capitol, inside the lower west terrace tunnel. The video on
12 the upper right-hand portion of the screen has a body-worn
13 camera video, also from the lower west terrace tunnel on
14 January 6th.

15 Q. And do the two videos appear to be synced at -- so
16 they're at the same time, or very close in time?

17 A. Yes.

18 Q. And how is Exhibit 903 different than Exhibit 902?

19 A. This exhibit has a yellow circle, each video. The
20 body-worn camera and the closed-circuit camera feed each
21 have a yellow circle around the defendant.

22 Q. Does Exhibit 903 appear to be made up of two other
23 exhibits that have been previously admitted?

24 A. Yes.

25 MS. SCHESNOL: Your Honor, the parties have a

1 stipulation; it is Exhibit 1007. And because it's a
2 stipulation, I would ask to admit the stipulation, publish
3 the stipulation, and just generally describe what is in the
4 stipulation.

5 THE COURT: Any objection?

6 MR. WATKINS: No objection.

7 THE COURT: Okay. So the stipulation at 1007 will
8 be admitted.

9 And the reason, ladies and gentlemen, that we're
10 admitting the stipulation is so you don't have to take
11 notes. You will have it with you in the jury room during
12 your deliberations, and it'll spare you taking notes about
13 it -- if you are taking notes.

14 MS. SCHESNOL: Thank you, Your Honor.

15 And I will also spare the jury from me reading
16 through it because, as Your Honor pointed out, the jury will
17 have it with them in the jury room.

18 But the reader's digest version is that
19 Stipulation 1007 sets forth the accurate depiction of videos
20 that have been admitted throughout the course of this trial
21 that are accurate but may have had some alterations. For
22 example, Government's Exhibit 401 is the time-lapsed video,
23 so the alteration is that it was sped up.

24 Exhibit 403 was created using Government's
25 Exhibit 402, and the modification was adding a circle to

1 identify the defendant. The same is true for Exhibit 603,
2 702.

3 Exhibit 901 has been admitted; that was admitted
4 through Captain Summers. This was the exhibit using various
5 closed-circuit TV, a Google Earth map, and radio runs.

6 Exhibits 902 and 903 that we have just discussed
7 are, basically, other exhibits that have already been
8 admitted, being put side-by-side and synced up in time.

9 Again, the jury will have the stipulation to
10 review.

11 So now that we have discussed that, the government
12 moves for the admission of Exhibits 902 and 903.

13 MR. WATKINS: No objection.

14 THE COURT: Wait, wait, wait. You mean 901 and
15 902?

16 MS. SCHESNOL: 902 and 903.

17 THE COURT: 902 and 903, okay.

18 MR. WATKINS: No objection.

19 THE COURT: Hearing no objection, those are both
20 admitted.

21 (Government's 902 and 903, admitted.)

22 MS. SCHESNOL: May we publish Exhibit 903?

23 THE COURT: Yes. You may publish both.

24 MS. SCHESNOL: Thank you.

25 It's fine where you have it right now. If we can

1 just press -- actually, if we can go back about maybe 45 to
2 60 seconds in the video.

3 (Whereupon, a video was published.)

4 MS. SCHESNOL: So the video is starting at
5 1 minute and 46 seconds. The time --

6 THE COURT: Ms. Schesnol, I don't know how long
7 this video is. I think you said it was like 10 or 11
8 minutes, and you're going to probably break at different
9 parts. I am just wondering whether we should take a break
10 now, rather than break in eight to ten minutes, and then you
11 could do this in an uninterrupted fashion.

12 MS. SCHESNOL: Yes, Your Honor. This is a good
13 breaking point.

14 THE COURT: All right. So ladies and gentlemen,
15 we'll take a break for ten minutes. Do not talk about the
16 case among yourselves or with anybody else?

17 (Whereupon, the jury was excused.)

18 (Whereupon, a recess was taken.)

19 THE COURT: Agent, please resume the stand.
20 We can bring in the jury.

21 (Whereupon, the jury returns to the courtroom.)

22 THE COURT: All right. Ms. Schesnol, please
23 proceed.

24 MS. SCHESNOL: Thank you, Your Honor.

25 BY MS. SCHESNOL:

1 Q. So, Agent Adams, we were looking at Exhibit 903.

2 MS. SCHESNOL: And if we could start playing,
3 actually, at the -- can we go back to about the one-minute
4 mark up, please.

5 Thank you for all of your assistance with these
6 videos.

7 THE COURT: Could you publish this, Teresa?

8 I'm sorry. Are you not seeing it in the back --

9 MR. WATKINS: We can't see it, in the back row.
10 Now we can.

11 THE COURT: You are good now. Perfect. Thank you
12 so much for alerting me.

13 MS. SCHESNOL: Okay. So we're at about the
14 one-minute mark in this video.

15 Can you please press play for about five seconds.
16 (Whereupon, the video was published.)

17 MS. SCHESNOL: We're having some technical
18 difficulty.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: Please pause the video.

21 BY MS. SCHESNOL:

22 Q. Agent Adams, what time of day is what we're seeing in
23 Exhibit 903 taking place?

24 A. 4:11 p.m.

25 Q. Okay. And I am not sure if you can see it in this exact

1 frame, but do you see the person you have identified as the
2 defendant, Vincent Gillespie, in either of these videos?

3 A. I can identify him in the video on the lower portion of
4 the screen.

5 Q. Can you -- just using your finger -- circle him?

6 A. (Witness complies.)

7 Q. And how is it that you can recognize the defendant?

8 A. In two ways. I have watched this video many, many
9 times. And I also recognize the hat, his location, his
10 general orientation of his body.

11 Q. And before we stopped it at this exact moment, was the
12 defendant's face visible for a moment as well?

13 A. Yes.

14 MS. SCHESNOL: Your Honor, may the record reflect
15 that Agent Adams has placed a blue circle on the lower
16 left-hand video -- virtually, right in the center --
17 identifying the defendant as the individual in that video.

18 THE COURT: Let the record so reflect.

19 MS. SCHESNOL: And I believe we are at 1 minute
20 and 15 seconds exactly, for the record. Thank you.

21 And, then, if we can play again for another few
22 more seconds. I will be asking you to pause it at various
23 points. Thank you.

24 (Whereupon, the video was published.)

25 MS. SCHESNOL: Please pause.

1 We have paused at 1 minute and 18 seconds.

2 BY MS. SCHESNOL:

3 Q. Can you see the defendant where we have stopped the
4 video at this point?

5 A. Yes. But, once again, only in the lower video, not the
6 upper video.

7 Q. And is the time -- just to be very precise -- 4:11 and
8 42 seconds p.m., on January 6, 2021?

9 A. Yes.

10 Q. And in the lower left-hand video, what, if anything, can
11 you see the defendant doing?

12 A. I see him gaining control of a police shield.

13 Q. Is this one of the -- the riot shields that we have
14 heard other witnesses testify about?

15 A. Yes.

16 Q. Can you put -- I am going to actually -- in an attempt
17 to be consistent, we're going to try to do these circles in
18 yellow.

19 Can you please put a circle around the defendant
20 where you see him?

21 A. (Witness complies.)

22 MS. SCHESNOL: It didn't work. It's still blue.

23 BY MS. SCHESNOL:

24 Q. And where is the shield that you have referenced?

25 A. (Witness complies.)

1 Q. Can you, by any chance on your screen -- and you might
2 not be able to.

3 Do you have access to change the color in the --
4 yes, I think you are doing it. Excellent.

5 So can you put a yellow circle.

6 A. (Witness complies.)

7 Q. There we go.

8 And around the riot shield, as well.

9 A. (Witness complies.)

10 Q. And now that we have placed the yellow circle around the
11 defendant -- it's a little hard to see. But with those
12 cleared, could -- how could you tell that the defendant was
13 beginning to gain control of a shield as you have described
14 it?

15 A. Well, once again, I have viewed this video a very
16 significant number of times. He was moving toward the
17 shield just moments ago, and he has placed his hand on the
18 shield in the video.

19 Q. And by "he," who do you mean?

20 A. The defendant.

21 MS. SCHESNOL: Your Honor, may the record reflect
22 that Agent Adams has placed a yellow circle and a yellow
23 rectangle around the individual he has identified as Vincent
24 Gillespie in the lower left-hand video, virtually in the
25 center, and then a yellow rectangle around a riot shield.

1 THE COURT: Let the record so reflect.

2 And why don't we just be specific. Instead of
3 just calling it "lower video" and "upper video," if we can
4 just call it the CCTV footage and BWC footage --

5 MS. SCHESNOL: Yes, Your Honor.

6 THE COURT: -- and we'll know which one we're
7 looking at.

8 MS. SCHESNOL: Thank you.

9 Can you press play again, please.

10 (Whereupon, the video was published.)

11 MS. SCHESNOL: Pause it.

12 We have paused at 1 minute and 24 seconds.

13 BY MS. SCHESNOL:

14 Q. Can you see the defendant in the CCTV and/or the
15 body-worn camera where we have paused here, at 1:24?

16 A. I can clearly see him in the CCTV video. I can see him
17 not as clearly in the body-worn camera.

18 Q. Can you please place a yellow circle around him -- what
19 is he doing in the CCTV video at this point in time, at 4:11
20 and 48 seconds?

21 A. He has oriented his body now toward the line of police
22 officers, and he continues to attempt to gain control of the
23 police riot shield.

24 Q. And does he have his hand on the riot shield from what
25 you can tell?

1 A. Clearly, the left hand -- his left hand is on the riot
2 shield; it's not as clear. I can't see his right hand in
3 the video -- in either video.

4 Q. And where we have paused it here, you have described
5 earlier, before our break, this Berkshire Nautilus
6 sweatshirt that was found in the defendant's home.

7 Can you make out that sweatshirt where we have
8 paused the video at 1:24?

9 A. Yes.

10 Q. Okay. Can you please be specific and orient the jury to
11 how you know that?

12 A. I know it because I've, again, viewed the video many
13 times. I have seen the sweatshirt many times. I have seen
14 the physical sweatshirt many times. It's a distinctive
15 logo, and it's -- it's visible on the left breast/chest
16 area, below his left hand, about -- almost directly in the
17 very center of the video.

18 Q. Can you place a yellow circle around the defendant and
19 the shield?

20 A. (Witness complies.)

21 Q. And can you maybe indicate where the Berkshire Nautilus
22 logo is as well?

23 A. (Witness complies.)

24 Q. Is there a way on that screen -- I am not sure if there
25 is -- to make the pen, like, smaller so it's not obstructing

1 part of -- maybe --

2 A. (Witness complies.)

3 MS. SCHESNOL: Thank you.

4 Your Honor, let the record reflect that
5 Agent Adams has placed a large yellow oval around who he has
6 identified the defendant and a riot shield in the CCTV in
7 the center frame.

8 THE COURT: Yes. Let the record so reflect.

9 MS. SCHESNOL: Thank you.

10 Please press play again. And we'll clear this.

11 (Whereupon, the video was published.)

12 MS. SCHESNOL: Please pause.

13 We've paused the video at 1 minute and 42 seconds.

14 BY MS. NEVIN:

15 Q. And now there is a yellow circle, so you don't have to
16 do that for us.

17 Who is depicted in the yellow circle where we --
18 in the CCTV video that we have paused at, I believe, 1:42?

19 A. The defendant, Vincent Gillespie.

20 MS. SCHESNOL: And the time stamp on the CCTV is
21 4:12 and 5 seconds.

22 Please press play.

23 (Whereupon, the video was published.)

24 MS. SCHESNOL: Please pause.

25 We have paused at 1 minute and 52 seconds.

1 BY MS. SCHESNOL:

2 Q. Can you describe what we have been seeing in -- in the
3 video, the defendant's actions as you have seen them in
4 these videos?

5 A. I would describe the defendant's actions as continuing
6 to press forward toward the line of police officers
7 defending the lower west terrace tunnel. I would describe
8 the defendant as fighting to get to the fight. Meaning, the
9 crowd before the line of police officers was very, very
10 tight, very packed with rioters; not all of the rioters were
11 actively engaged with the police.

12 To get to the police took a significant effort
13 because it was so packed and so intense. So he is fighting
14 through the crowd to get to the fight, meaning, to actually
15 fight police officers.

16 Q. Can you see the defendant in the body-worn camera
17 portion of Exhibit 903?

18 A. Yes.

19 Q. Can you please put a circle around him in that frame?

20 A. (Witness complies.)

21 Q. And what, if anything, does the defendant have his hand
22 on in the -- where you have put a yellow circle?

23 A. The defendant has his hand on a police riot shield.

24 MS. SCHESNOL: Your Honor, may the record reflect
25 Agent Adams has put a yellow circle in the BWC portion of

1 this video around the person he has identified as Vincent
2 Gillespie.

3 THE COURT: Let the record so reflect.

4 MS. SCHESNOL: Thank you.

5 Please press play.

6 (Whereupon, the video was published.)

7 MS. SCHESNOL: Please pause.

8 Can we actually go back just a couple of seconds.

9 (Whereupon, the video was published.)

10 MS. SCHESNOL: Pause there.

11 And we have paused at 1:58 into the video.

12 BY MS. SCHESNOL:

13 Q. Can you describe what the video has shown?

14 A. The video has shown the defendant now actually engaged
15 with the police at the line of officers that are defending
16 the tunnel.

17 Q. And you were present for Sergeant Riley's testimony
18 yesterday, correct?

19 A. Correct.

20 Q. And you have met Sergeant Riley in preparation for
21 trial; is that correct?

22 A. That is correct.

23 Q. Do you see Sergeant Riley in this frame?

24 A. I do. I see him in the body-worn camera video.

25 Q. And can you just -- you don't have to put a circle

1 around him; but just describe him to orient the jurors.

2 A. He is not wearing a helmet. He is wearing the coat with
3 the bright, fluorescent color on it, and he is near the
4 front. He has got distinctive -- again, because of the lack
5 of the helmet -- hair combed back, and appears to be -- he
6 has his arm pointed or oriented toward the line of rioters.

7 MS. SCHESNOL: Please press play.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: Please pause.

10 BY MS. SCHESNOL:

11 Q. Maybe not in this precise frame, at 2:16, but can you
12 describe -- up until we have paused here, what you have been
13 seeing with regard to the defendant and the action on the
14 screen?

15 A. He is progressing yet further toward and, in fact, into
16 the line of police officers. He has used the shield as a
17 ram in an effort to attack the line of police officers.

18 MS. SCHESNOL: Please press play.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: Please pause.

21 We have paused here, at 2 minutes and 27 seconds.

22 The time is 4:12:50.

23 BY MS. SCHESNOL:

24 Q. Can you please describe what you see here with regard to
25 the defendant? What, if anything, you see?

1 A. In the body-worn camera, the image is much more clear.
2 The closed-circuit feed has substances on it that are
3 concealing the actual events that are depicted or captured
4 by the body-worn camera.

5 So I can only really describe what I see in the
6 body-worn camera at this moment. But the defendant, Vincent
7 Gillespie, has placed his hands on Sergeant Riley and is now
8 in the process of aggressively trying to pull him into the
9 mob.

10 Q. Also, with regard to these two different videos, just to
11 reorient the jury, these are taken from two different
12 angles; is that correct?

13 A. That is correct.

14 The body-worn camera -- because it's worn on a
15 person's body who is very decisively engaged with a major
16 police event, that camera is shaky, and it moves; and it's
17 not in a fixed location, unlike the closed-circuit camera
18 which is, in fact, fixed, cannot move, cannot focus in or
19 out. So they're the same general angle, but different
20 perspectives on the fight.

21 Q. And it appears that the CCTV footage is actually looking
22 more directly out of the tunnel versus the body-worn camera
23 is more of a side angle. Is that a fair representation?

24 A. That's fair.

25 Q. As well as -- we are hearing some audio in this.

1 Do you recall, based on the testimony of others,
2 that body-worn camera has audio but the CCTV does not?

3 A. Yes. Body worn has audio capability, CCTV does not.

4 Q. So the audio that we're hearing associated with 903,
5 which of these videos is that coming from?

6 A. That's coming from the body-worn camera.

7 MS. SCHESNOL: If we can press play again.

8 (Whereupon, the video was published.)

9 MS. SCHESNOL: Please pause.

10 We have paused now at 2:29, it's 4:12:52.

11 BY MS. SCHESNOL:

12 Q. Can you describe what we see -- where we've paused the
13 video here?

14 A. Yes. The defendant, Vincent Gillespie, is using,
15 apparently, all of his strength in an effort to pull
16 Sergeant Riley into the crowd.

17 MR. WATKINS: Objection, Your Honor. The answers
18 are now bearing into opinion testimony and
19 characterizations.

20 THE COURT: I appreciate the objection. And is
21 this -- I am going to overrule the objection.

22 But could you just make it clear what you are
23 seeing and what you are surmising from that because --
24 indicating how much he is putting all of his full weight
25 into it is not something actually I can see, so I am not

1 sure where you are getting that.

2 Will you proceed.

3 MS. SCHESNOL: I apologize.

4 BY MS. SCHESNOL:

5 Q. Was that description that you just gave based on
6 watching the video in its entirety and not just pausing at
7 certain points in time?

8 A. Yes.

9 Q. And you have indicated you have seen this video multiple
10 times?

11 A. Correct.

12 MS. SCHESNOL: Please press play.

13 (Whereupon, the video was published.)

14 MS. SCHESNOL: Please pause.

15 We have paused the video at 2 minutes and
16 32 seconds, or 4:12 and 55 seconds.

17 BY MS. SCHESNOL:

18 Q. What can we see where we've paused the video here?

19 And, again, there are yellow circles that are
20 embedded within the video itself.

21 A. So we can still see the defendant now in both body-worn
22 camera and closed-circuit camera. He still has -- it
23 appears he still has one arm on Sergeant Riley. It's a
24 little bit difficult to see from this perspective where the
25 defendant's hand is.

1 Just prior to the videos being paused, he did
2 have -- the defendant did have his hands on Sergeant Riley,
3 and Sergeant Riley had been struck by an object from another
4 rioter in the crowd.

5 MS. SCHESNOL: If we could go back maybe about six
6 or seven seconds and just play it through, which might be --
7 give some context to where we have paused the video.
8 Thank you.

9 (Whereupon, the video was published.)

10 MS. SCHESNOL: If we pause here, we're at
11 2 minutes and 37 seconds.

12 BY MS. SCHESNOL:

13 Q. Does it appear that what we just watched was -- can you
14 describe what we just watched?

15 A. Yes. That was the moment in time where the defendant
16 had his hands on Sergeant Riley's arm and was attempting to
17 pull Sergeant Riley into the mob.

18 MS. SCHESNOL: And if we can just press play, and
19 we'll --

20 MR. WATKINS: Objection, again, Your Honor. I'm
21 sorry. I didn't hear the Court's ruling on my last
22 objection.

23 THE COURT: It was overruled.

24 And to the extent that you're objecting to the
25 agent describing what he saw as the defendant trying to pull

1 Officer Riley into the mob -- and I think your objection is
2 he can't say what was his intent. Is that your objection?

3 MR. WATKINS: Again, Your Honor, I am having real
4 difficulty hearing with the mask.

5 THE COURT: Sorry. Is your objection that this
6 agent can't say what the defendant's intent was?

7 MR. WATKINS: That is correct, Your Honor.

8 THE COURT: He can say what it appears to him to
9 be, and it's fodder for cross-examination. Overruled.

10 MS. SCHESNOL: Please press play.

11 (Whereupon, the video was published.)

12 MS. SCHESNOL: Please pause.

13 I'm sorry. Can we go back a couple of seconds.

14 (Whereupon, the video was published.)

15 MS. SCHESNOL: Pause here.

16 We have paused at 2 minutes 41 seconds. The time
17 is 4:13, and about 4 seconds.

18 BY MS. SCHESNOL:

19 Q. What does it appear, especially in the more clearly
20 CCTV, that the defendant is doing at this point?

21 A. So it appears the defendant has disengaged from
22 Sergeant Riley and has stepped back from the line of police
23 officers and has picked up a riot shield, a police riot
24 shield.

25 MS. SCHESNOL: Please press play.

1 (Whereupon, the video was published.)

2 MS. SCHESNOL: Please pause.

3 We have paused at 3 minutes and 4 seconds.

4 BY MS. SCHESNOL:

5 Q. Can you describe, based on your view of the video, what
6 it appears to you we have watched since we last paused the
7 video?

8 A. It appears to me that the defendant is still in the very
9 close proximity to the line of police officers. He still
10 has the police riot shield in his possession. And it
11 appears that he has just very recently in the video been
12 sprayed in the face with some sort of chemical irritant.

13 Q. What makes you say that?

14 A. The way he reacts, and then he put his hands almost
15 immediately to his eyes and -- and appeared to try to wipe
16 something away from his face.

17 MS. SCHESNOL: Please press play.

18 (Whereupon, the video was published.)

19 MS. SCHESNOL: Please pause.

20 We've paused at 3 minutes and 54 seconds, or 4:14
21 and 17 seconds p.m. in the afternoon.

22 BY MS. SCHESNOL:

23 Q. Can you describe, watching Exhibit 903, how it appears
24 to you, what is going on in the video since we have last
25 paused it?

1 A. The defendant is still in very close proximity to the
2 line of officers guarding the door to the Capitol. The
3 chemical irritant I described earlier appears to have
4 temporarily done its job, which is to basically stun
5 somebody, force them to close their eyes, take their
6 attention away from whatever activity they were doing that
7 prompted the use of the chemical irritant.

8 The defendant wiped his eyes several times and,
9 then, has now started, from what I can observe, to overcome
10 the effects and is now starting to talk again to members of
11 the riot.

12 Q. Does it appear that the defendant is making any effort
13 to leave the area he is in?

14 A. No.

15 MS. SCHESNOL: Please press play.

16 (Whereupon, an exhibit was published.)

17 MS. SCHESNOL: Please pause.

18 We have paused at 4 minutes and 42 seconds, or
19 4:15 and 4 seconds -- 4 or 5 seconds on the afternoon of
20 January 6, 2021.

21 BY MS. SCHESNOL:

22 Q. Based on your review of this video, what does it appear
23 to you we have watched since we have last paused the video?

24 A. We have watched continuous fighting. We have watched
25 the line of police officers still in the general proximity

1 as when we had paused it previously.

2 Another member of the riot starts screaming at the
3 line of officers, at which point the defendant also started
4 to scream at the line of officers.

5 Q. And could you make out any of the words that it appeared
6 the defendant screamed?

7 A. It appears to me that he is screaming "traitor" and
8 "treason."

9 Q. And there is a lot of noise going on in this video. So
10 was there anything else about the defendant's body language,
11 anything like that -- from which you drew this conclusion?

12 A. Yes. It is very chaotic, and it is very difficult to
13 parse out.

14 One of the ways through the course of the
15 investigation I was able to come to that determination was
16 his body language, pointing; his mouth is open wide, and
17 pointing and -- and mouth open wide several times.

18 MS. SCHESNOL: If we could please press play
19 again.

20 (Whereupon, the video was published.)

21 MS. SCHESNOL: Please pause.

22 We've paused at 5 minutes and 38 seconds.

23 BY MS. SCHESNOL:

24 Q. Can you describe what, based on your review of this
25 video, it appears to you has happened since we last paused

1 the video?

2 A. The closed-circuit TV is more clear at this point, so I
3 can only really make an observation based on that video.

4 The mob starts to surge at this point and is, in
5 fact, pushing the line of officers closer to the door behind
6 them. So they are closer -- the rioters are closer to the
7 door -- the actual entrance to the Capitol, and they have
8 pushed that line of officers defending the tunnel backward.

9 Q. Do you see the defendant in one of these videos?

10 A. I do. I can see him in the closed-circuit TV image.

11 Q. In the closed-circuit TV image can you make out that
12 there are members from various law enforcement agencies?

13 A. Yes. I see Capitol Police and Metropolitan Police
14 Department officers.

15 Q. You earlier described the scene as very chaotic. Can
16 you describe some of the noises that we can observe in
17 Exhibit 903?

18 A. Yes. Yelling, screaming, shouting the sound of objects
19 striking helmets, shields. The chaos of thousands of people
20 agitated.

21 Q. And did you notice that constant piercing, very annoying
22 noise?

23 A. Yes.

24 Q. What is that, if you know?

25 A. That is an alarm. The door behind which the police --

1 behind the police is alarmed so that, if it opens without
2 somebody using a code or a badge to scan in or code in --
3 it's an emergency alarm. And that is -- that is almost
4 continuous throughout the video for the body-worn camera.

5 MS. SCHESNOL: Thank you.

6 Please press play.

7 (Whereupon, the video was published.)

8 MS. SCHESNOL: Can you pause here.

9 We've paused at 5:48, I think, or 5:43.

10 BY MS. SCHESNOL:

11 Q. You have described some doors and the alarms sounding.
12 Could we see these in either of the two videos contained in
13 Exhibit 903?

14 A. Yes. The body-worn camera feed depicts that door I was
15 just describing.

16 Q. And does the door appear open?

17 A. It does.

18 Q. And would that be consistent with the alarm that you
19 just talked about?

20 A. Yes.

21 MS. SCHESNOL: Please press play.

22 (Whereupon, the video was published.)

23 MS. SCHESNOL: Please pause.

24 If you can maybe go back about a second.

25 Thank you.

1 We have paused at 6 minutes and 16 seconds, or
2 4:16:37, 38 seconds.

3 BY MS. SCHESNOL:

4 Q. What does it appear -- what have you observed since we
5 have last paused the video?

6 A. I have observed the defendant in the lower portion of
7 the closed-circuit TV image, along with the line of rioters,
8 pushing the line of police officers ever further away from
9 the opening of the tunnel and toward the doors.

10 As a matter of fact, from the closed-circuit TV
11 image, it appears the line of officers is either out of the
12 view of the camera or almost all out. There are several
13 lower -- extreme lower left-hand corner, there is a police
14 officer with a helmet. But that line of officers has been
15 pushed back due to a surge of the rioters toward the door to
16 the Capitol.

17 Q. And is the defendant one of those individuals who is
18 getting closer to the camera, a/k/a closer to the doors?

19 A. Yes.

20 MS. SCHESNOL: Please press play.

21 (Whereupon, the video was published.)

22 MS. SCHESNOL: We have paused at 6:37.

23 BY MS. SCHESNOL:

24 Q. Is the defendant still visible in one of these two
25 screenshots?

1 A. He is only visible in the closed-circuit TV image, but
2 he is clearly visible in the lower left-hand corner of the
3 video image.

4 Q. And the time of day now is 4:16 and 58 or 59 seconds.

5 MS. SCHESNOL: Please press play.

6 (Whereupon, the video was published.)

7 MS. SCHESNOL: Please pause.

8 It's 4:17 and 43 seconds, 7:21 into the video.

9 BY MS. SCHESNOL:

10 Q. Can you still see the defendant in Exhibit 903?

11 A. Yes.

12 Q. Where is he?

13 A. He is still in the lower left-hand corner of the
14 closed-circuit TV still shot.

15 Q. And where would that put him in relation to the lower
16 west terrace doors?

17 A. Very close. Likely within arm's length.

18 MS. SCHESNOL: Please press play.

19 (Whereupon, the video was published.)

20 BY MS. SCHESNOL:

21 Q. While the video is still playing, can you describe why
22 perhaps the audio has ceased and how this visually changed,
23 Exhibit 903?

24 A. The audio has ceased because the body-worn camera
25 footage is no longer being played. And without the

1 body-worn camera, we lose the ability to hear.

2 Q. And so now is it fair to say we're just watching the
3 Capitol camera, the CCTV?

4 A. Yes.

5 MS. SCHESNOL: Can we pause here?

6 We have paused at 8:32. It's 4:18 and 53
7 seconds p.m., in the afternoon on January 6th.

8 BY MS. SCHESNOL:

9 Q. Is the defendant still visible in the CCTV?

10 A. He is, in the lower left-hand corner.

11 Q. Where is he in relation to the lower west terrace doors?

12 A. Again, very close. Within arm's reach.

13 MS. SCHESNOL: Please press play.

14 (Whereupon, the video was published.)

15 MS. SCHESNOL: Can we pause here.

16 We're at 9 minutes and 46 seconds, or 4:20 in the
17 afternoon of January 6th.

18 BY MS. SCHESNOL:

19 Q. Is the defendant visible in this frame?

20 A. Not in this frame.

21 Q. And what, if anything, does that indicate to you, that
22 he is not visible in this frame?

23 A. That indicates that he is closer to the doors because of
24 the surge of rioters that have pushed the crowd closer
25 toward the lower west terrace entryway into the Capitol.

1 Q. And so he's actually out of the camera view?

2 A. Correct.

3 MS. SCHESNOL: Please press play.

4 (Whereupon, the video was published.)

5 MS. SCHESNOL: Please pause.

6 We're at 10:35 into the video, or 4:20 in the
7 afternoon or --

8 MR. WATKINS: I am having terrible trouble hearing
9 Ms. Schesnol.

10 THE COURT: You're getting much quieter,
11 Ms. Schesnol. I was having trouble hearing you as well.

12 Could you please speak up.

13 MS. SCHESNOL: I apologize.

14 THE COURT: Much better.

15 MS. SCHESNOL: I apologize.

16 BY MS. SCHESNOL:

17 Q. It's 10 minutes and 35 seconds into the second, or 4:20
18 and 57 seconds on January 6th. Can you describe,
19 Agent Adams, what we've watched in the last few seconds?

20 A. In the last few seconds the police officers have started
21 to push the line of rioters back away from the entryway, the
22 actual door inside -- to the inside of the Capitol and
23 pushed them away out more toward the open.

24 Q. And how can you tell that's what happened?

25 A. I can tell in two way. The line of rioters begins to

1 retreat. The line of officers begins to reappear in the
2 video, indicating the police have moved from closer to the
3 door where the camera cannot see to closer to the open air
4 area where the camera can see.

5 MS. SCHESNOL: Thank you.

6 Please press play.

7 (Whereupon, the video was published.)

8 MS. SCHESNOL: Can we pause here.

9 BY MS. SCHESNOL:

10 Q. We're at 10 minutes and 53 seconds into the video, or
11 4:21 and 14 seconds p.m. on January 6, 2021. Can you see
12 the defendant where we have paused the video here?

13 A. Yes, I can.

14 Q. And where -- where is he where we have paused the video?

15 A. He is in the lower left-hand -- or closer to mid
16 left-hand portion of the video still shot, getting pushed
17 back away from the door toward the open area.

18 Q. Who is doing the pushing?

19 A. The line of police officers.

20 Q. Which direction is the defendant facing?

21 A. He is facing toward the doors, which is the east. He is
22 looking east, being pushed west.

23 Q. And so would he -- as he is being pushed west, would he
24 be walking forwards or backwards?

25 A. Backwards.

1 MS. SCHESNOL: Please press play.

2 (Whereupon, the video was published.)

3 MS. SCHESNOL: Please pause, at 11 minute and
4 1 second.

5 BY MS. SCHESNOL:

6 Q. And what we have just seen in the last few seconds, can
7 you please describe the defendant in the last few seconds of
8 the video that we have seen?

9 A. He is being pushed back, yet again, by the line of
10 police officers.

11 Q. And is he facing the police officers or turned away and
12 walking away from the police officers?

13 A. He is facing the line of officers.

14 Q. So, again, would he be walking forwards or backwards at
15 this point?

16 A. He would be getting pushed backwards at this point.

17 Q. Can you see other members of the crowd in this video?

18 A. Yes.

19 Q. And other members who are in close proximity to the
20 defendant?

21 A. Yes.

22 Q. And are they facing the camera or facing away from the
23 camera?

24 A. They all appear to be facing away from the camera.

25 Q. And what does that indicate to you?

1 A. That indicates to me that they are walking away rather
2 than being forced away.

3 Q. And they are walking forwards and not backwards; is that
4 correct?

5 A. That's correct.

6 MS. SCHESNOL: Please press play.

7 (Whereupon, the video was published.)

8 MS. SCHESNOL: Please pause.

9 Is there any way to go back like two-tenths of a
10 second.

11 BY MS. SCHESNOL:

12 Q. Here, where we have paused 11 minutes and 13 seconds, or
13 4:21 in the afternoon, same thing, is Mr. Gillespie facing
14 forwards towards the police or away from the police?

15 A. He is facing forward towards the police.

16 Q. And some of the other members of the crowd that are in
17 close proximity to the defendant, are they face-to-face with
18 the police or do they appear to be walking away?

19 A. They appear to be walking away.

20 MS. SCHESNOL: Please press play.

21 (Whereupon, the video was published.)

22 MS. SCHESNOL: Please pause, at 11 minutes 23
23 seconds.

24 BY MS. SCHESNOL:

25 Q. What about now?

1 A. Once again, the defendant is facing the line of police
2 officers being pushed backward. The other rioters in his
3 immediate vicinity are facing away from the police, their
4 backs to the police, and walking out.

5 Q. In the last few seconds, again we have no audio, could
6 you see if the defendant's mouth was moving at all?

7 A. Yes. It was open and moving.

8 Q. And what, if anything, does that indicate to you?

9 A. That indicates to me that he was saying something.

10 Q. To whom?

11 A. The line of police officers.

12 MS. SCHESNOL: Please press play.

13 (Whereupon, the video was published.)

14 BY MS. SCHESNOL:

15 Q. Is the defendant still visible in this video?

16 A. He is. He is visible with the yellow circle around him.

17 Q. Without a yellow circle, can you still see the defendant
18 in this video?

19 A. He is bobbing in and out. I can't see him at the very
20 moment I am speaking; but I have been able to see him. Now
21 I see him again. And, again, now.

22 MS. SCHESNOL: If we can pause here.

23 We've paused at 14:33 in the video, it's 4:24 and
24 55 seconds p.m., January 6th.

25 BY MS. SCHESNOL:

1 Q. Can you describe, based on your review of the video,
2 your impression of the last couple of minutes or so that we
3 have watched?

4 A. My impression is the line of police officers has surged.
5 They begin to push the rioters outside of the tunnel
6 entryway. The defendant is one of the few that continues to
7 face the police officers. I can't hear what he says, but
8 his mouth is moving at times -- several times throughout --
9 appearing to me that he is saying something.

10 At one point, before you paused it, his head
11 snapped back. It looked like an officer, in an effort to
12 continue to clear him out, struck him. He also appears to
13 have been struck by piping of some sort -- a pole of some
14 sort -- by a rioter who appeared to be perched on something
15 or from an elevated position.

16 At some point he lost his hat and, as we have
17 paused it, he is still facing the police officers.

18 Q. In the last couple of minutes we have watched, and maybe
19 you weren't paying attention to anyone other than the
20 defendant -- but could you see whether or not some of the
21 other members of the mob left that lower west terrace
22 tunnel?

23 A. Yes. I was -- focused most of my attention on the
24 defendant, but I was scanning the crowd as well. Others,
25 from my perspective of having watched this video, appear to

1 begin the process of disengagement.

2 MS. SCHESNOL: Please press play.

3 (Whereupon, the video was published.)

4 MS. SCHESNOL: Please pause.

5 BY MS. SCHESNOL:

6 Q. Up until about a tenth of a second, when we just paused
7 it at 5:48 in the video, at 4:26 p.m. in the afternoon,
8 could you still see the defendant in this video?

9 A. Up until the moment of pausing it, yes.

10 MS. SCHESNOL: Please press play.

11 (Whereupon, the video was published.)

12 BY MS. SCHESNOL:

13 Q. Can you still see him in the video?

14 A. Yes.

15 MS. SCHESNOL: We can pause here.

16 It's 16 minutes and 19 seconds into a 16-minute
17 and 27-second video. The time stamp is 4:26 p.m. and 41
18 seconds on January 6th.

19 BY MS. SCHESNOL:

20 Q. In this video, is it fair to say that we can see the
21 defendant from approximately 4:11 p.m. to 4:26 p.m. in the
22 CCTV?

23 A. Yes.

24 Q. I don't mean to put you on the spot and make you to
25 math, but about how long of a time period is it from 4:11

1 until 4:16 -- until 4:26?

2 A. About 15 minutes.

3 Q. And through the course of your investigation and sitting
4 through trial, have you had the opportunity to see still
5 frames that have been introduced, published to the jury that
6 are from Exhibit 402, which are the CCTV that we just
7 watched and 702, which is the body-worn camera that we
8 watched?

9 Have you had an opportunity to see those stills?

10 A. Yes.

11 Q. And in those stills -- did you see Mr. Gillespie in
12 those stills?

13 A. Yes.

14 Q. On the day that the defendant's house was searched,
15 what, if any -- did you have any intersection with the
16 defendant?

17 A. Yes.

18 Q. What date was that?

19 A. That was February 18th, 2022.

20 Q. On that day, approximately how much time did you spend
21 with the defendant? Approximately.

22 A. Approximately three to four hours.

23 Q. And in that time were you able to observe his general
24 appearance and the sound of his invoice?

25 A. Yes.

1 Q. And I think we have already established that you have
2 watched a lot of CCTV, body-worn camera, and open source
3 video; is that right?

4 A. Yes.

5 Q. I would like to turn your attention to Exhibit 607,
6 which has not yet been introduced.

7 Do you recognize Exhibit 607?

8 A. Yes.

9 Q. What is depicted in this exhibit?

10 A. The defendant is depicted in the image moving in the
11 vicinity of the Museum of African American History.

12 Q. And is the defendant -- does he have any marking around
13 him to identify him?

14 A. He does. There is a yellow circle around him.

15 Q. Is he the only person in this image?

16 A. No. There are many people in the image.

17 Q. Generally speaking, the African-American museum,
18 approximately where is that in the city?

19 A. That's approximately, I would say, a mile from the
20 Capitol.

21 Q. And you recognize the defendant in this image?

22 A. Yes.

23 MS. SCHESNOL: Your Honor, the government moves
24 for the admission of Exhibit 607 and its publication.

25 MR. WATKINS: No objection.

1 THE COURT: Hearing no objection, Exhibit 607 may
2 be admitted and may be published.

3 (Government's 607, admitted and published.)

4 BY MS. SCHESNOL:

5 Q. And when you say about a mile from the Captain, in which
6 direction?

7 A. That would be west of the Capitol.

8 Q. Showing you what's been marked for identification as
9 Exhibit 608.

10 Do you recognize 608?

11 A. I do.

12 Q. And what is this?

13 A. That's another image of the defendant.

14 As a matter of fact, you can see both the backpack
15 strap I described earlier and the top of the logo on the
16 sweatshirt, once again, in the vicinity of the Museum of
17 African American History. You can also see the Washington
18 Monument in the center of the image.

19 Q. Is the defendant the only person in this image?

20 A. No.

21 Q. How is he designated or set apart from the other people?

22 A. He is set apart with a yellow circle around his head.

23 MS. SCHESNOL: Your Honor, may the record --
24 excuse me.

25 The government moves for the admission and

1 publication of Exhibit 608.

2 MR. WATKINS: No objection.

3 THE COURT: Hearing no objection, it may be
4 admitted and may be published.

5 (Government's 608, admitted and published.)

6 MS. SCHESNOL: If we can please go to Exhibit 606.

7 BY MS. SCHESNOL:

8 Q. Do you recognize Exhibit 606?

9 A. Yes.

10 Q. What is Exhibit 606?

11 A. Exhibit 606 is a photo. The defendant has a yellow
12 circle around him, and this image is much closer to the
13 Capitol -- actually, on the Capitol grounds.

14 Q. Is he the only person in this image?

15 A. No.

16 Q. And how can you tell that this picture was taken on the
17 Capitol grounds?

18 A. It's very distinctive based on all of the images and
19 videos I have viewed of the January 6th riot.

20 Q. Does this appear to be part of the scaffolding that was
21 set up for the inauguration?

22 A. Yes, it does.

23 MS. SCHESNOL: Your Honor, the government moves
24 for the admission and publication of Exhibit 606.

25 MR. WATKINS: No objection.

1 THE COURT: Hearing no objection, Exhibit 606 will
2 be admitted.

3 (Government's 606, admitted.)

4 BY MS. SCHESNOL:

5 Q. Showing you Exhibit 605, which is actually a video --
6 not a very long one. I am going to ask that it's played for
7 you to make sure you recognize it.

8 THE COURT: What number is this?

9 MS. SCHESNOL: 605, Your Honor. It's a 15-second
10 video.

11 BY MS. SCHESNOL:

12 Q. Do you recognize Exhibit 605?

13 A. Yes.

14 Q. And what is Exhibit 605?

15 A. 605 is a video of a very large group of people on the
16 Capitol grounds in the vicinity of the scaffolding that we
17 just addressed.

18 Q. And is the defendant visible in this video?

19 A. Yes.

20 Q. How is it that he is -- is he the only person in this
21 video?

22 A. He is not. He is visible. He has a yellow rectangle
23 around him; and he is wearing that distinctive clothing that
24 I referenced earlier.

25 MS. SCHESNOL: Your Honor, the government moves

1 for admission and publication of Exhibit 605.

2 MR. WATKINS: No objection.

3 THE COURT: Hearing no objection, it will be
4 admitted.

5 (Government's 605, admitted.)

6 MS. SCHESNOL: Can we publish it for the jury?

7 THE COURT: It may be published.

8 MS. SCHESNOL: Thank you. It's a 15-second video.

9 (Whereupon, the video was published.)

10 BY MS. SCHESNOL:

11 Q. Showing you what's been marked for identification as
12 Exhibit 602, which is another video.

13 Do you recognize 602?

14 MS. SCHESNOL: I believe these videos have audio.
15 When we publish them, I would ask that you turn that on.

16 BY MS. SCHESNOL:

17 Q. Do you recognize Exhibit 602? It's a video that's
18 1 minute and 22 seconds.

19 A. Yes.

20 Q. And what is Exhibit 602?

21 A. Exhibit 602 is a video of what I described earlier as
22 the defendant moving toward fighting to get to the fight.
23 He is moving toward the lower west terrace tunnel entrance.

24 As the video progresses, he progresses closer and
25 closer to the line of officers. We can see the police

1 officers defending the door. We can see police officers in
2 riot gear. We can see police officers -- for that matter,
3 rioters with shields. As a matter of fact, it might only be
4 rioters with shields from that image. But we clearly see
5 police officers right now being sprayed defending the door
6 to the Capitol.

7 Q. Is the defendant the only person in this video?

8 A. He is not.

9 Q. How do you recognize him in the crowd?

10 A. Again, from the distinctive clothing. When he is --
11 when his face is visible to the camera, I recognize him from
12 my previous interactions with him.

13 He has the sweatshirt and the backpack that we
14 discussed earlier, as well, that we seized from his house.

15 Q. At some points in the video, is there once again a
16 yellow circle or square to make him easier to pick him out?

17 A. Yes.

18 Q. And based on your investigation, your review of open
19 source videos, is this a fair and accurate depiction of the
20 events at the Capitol on January 6, 2021?

21 A. Yes, it is.

22 MS. SCHESNOL: Your Honor, the government moves
23 for the admission and publication of Exhibit 602.

24 MR. WATKINS: No objection.

25 THE COURT: Hearing no objection, it will be

1 admitted and may be published.

2 MS. SCHESNOL: If we can play this with audio,
3 please.

4 (Government's 602, admitted and published.)

5 MS. SCHESNOL: Can we pull up Exhibit 610, please,
6 which I believe is a still and not a video.

7 BY MS. SCHESNOL:

8 Q. Are you familiar with Exhibit 610, Agent Adams?

9 A. Yes.

10 Q. And what is Exhibit 610?

11 A. Exhibit 610 is an image. It's an image of the defendant
12 moving toward the lower west terrace tunnel entrance.

13 Q. And is he the only person in this picture?

14 A. He is not.

15 Q. How can you make him out?

16 A. I can make him out by the circle around him, and also by
17 the -- I am familiar with the knit cap he wore that day.

18 Q. Does this appear to be a fair and accurate depiction of
19 the defendant at the Capitol on January 6, 2021?

20 A. Yes.

21 MS. SCHESNOL: Your Honor, the government moves
22 for its admission and publication to the jury.

23 MR. WATKINS: No objection.

24 THE COURT: Hearing no objection, it will be
25 admitted and may be published.

1 (Government's 610, admitted and published.)

2 BY MS. SCHESNOL:

3 Q. And just so it's clear for the jury, can you repeat
4 where the defendant is and how you recognize him?

5 A. The defendant is moving toward the lower west terrace
6 tunnel entrance. I recognize him from the knit cap; I can
7 see the hood of his sweatshirt. And I have seen this image
8 in the video surrounding this time frame on January 6th
9 many, many times.

10 Q. And in this image, can you see other members of the
11 crowd in addition to the defendant?

12 A. Yes.

13 Q. And do all of the other members of the crowd appear to
14 be moving towards the lower west terrace tunnel?

15 A. No.

16 Q. Can you please explain what you mean by that?

17 A. Some members of the crowd are moving -- moving away are
18 oriented away from the lower west terrace tunnel; some are
19 oriented in different directions. Not everybody, especially
20 the individual in the upper right-hand corner, is focused on
21 the entryway. Some appear to be moving away -- or they are
22 moving away, and the defendant is moving toward the line of
23 officers.

24 Q. Agent Adams, do you recall yesterday when
25 Captain Summers was testifying and the defense admitted

1 their Exhibit 1101 through Captain Summers?

2 A. Yes.

3 Q. And do you recall that that was the dome camera of the
4 crowd? And Captain Summers couldn't quite pinpoint the
5 time, but she knew it was after the security breach.

6 A. Yes.

7 MS. SCHESNOL: May I have a moment, Your Honor?

8 THE COURT: Yes.

9 MS. SCHESNOL: Since Defense Exhibit 1101 has
10 already been admitted, may we publish it for the jury?

11 THE COURT: Yes. Of course.

12 MS. SCHESNOL: Thank you.

13 (Whereupon, the exhibit was published.)

14 MS. SCHESNOL: You can pause right here.

15 We're at about 6 seconds into a
16 1-minute-and-21-second video.

17 BY MS. SCHESNOL:

18 Q. Do you recall this being admitted yesterday?

19 A. Yes.

20 Q. And you have described the defendant fighting to get to
21 the fight; is that right?

22 A. Yes.

23 Q. And does exhibit -- what does Exhibit 1101 show with
24 regard to where the defendant would have had to move on
25 Capitol grounds?

1 A. So the image shows a very large crowd on the Capitol
2 grounds. It gets more and more dense the closer to the
3 Capitol and the closer to the area I have been describing,
4 the lower west terrace. It gets more dense closer to that
5 area.

6 MS. SCHESNOL: If we could please turn to
7 Exhibit 601.

8 BY MS. SCHESNOL:

9 Q. Agent Adams, through your being present during this
10 trial, do you recall references to Exhibit 601 throughout
11 the course of this trial?

12 A. Yes.

13 Q. And have you had the opportunity to review Exhibit 601?

14 A. Yes, I have.

15 Q. And can you describe for us what is Exhibit 601?

16 A. Exhibit 601 is an Associated Press video that we
17 located -- we discovered during the course of our
18 investigation into the defendant.

19 Q. And what does the Associated Press have to do with the
20 defendant?

21 A. The defendant was interviewed by a reporter. The
22 reporter video-recorded the incident, or the interview,
23 during the Capitol incident and then, at some point, the AP
24 picked that up and published that video.

25 Q. And in your view of Exhibit 601 and your familiarity

1 with the defendant's -- what he looks like and what he
2 sounds like, is the individual depicted in 601 -- does that
3 appear to be the defendant?

4 A. Yes, it does.

5 Q. And were you present for the testimony of both
6 Captain Summers and Officer Gazelle who described that this
7 video took place on the west side of the Capitol on
8 January 6th?

9 A. Yes.

10 Q. Still within restricted grounds?

11 A. Yes.

12 MS. SCHESNOL: Your Honor, the parties have
13 reached a stipulation, it is Exhibit 1001.

14 Since we have reached the stipulation, I would ask
15 to be permitted to admit the exhibit and publish it for the
16 jury.

17 THE COURT: Any objection to the stipulation?

18 MR. WATKINS: No objection.

19 THE COURT: And are you also asking for admission
20 of both Stipulation 1001, as well as the Associated Press
21 video 601.

22 MS. SCHESNOL: Yes, Your Honor.

23 THE COURT: No objection to either one?

24 MR. WATKINS: I'm sorry.

25 THE COURT: Do you have -- I understand you have

1 no objection to 1001.

2 Do you have any objection to 601?

3 MR. WATKINS: No.

4 THE COURT: All right. No objection. Both 1001
5 and 601 will be admitted, and it may be published.

6 (Government's 601 and 1001, admitted.)

7 MS. SCHESNOL: So very -- thank you, Your Honor.

8 Very briefly, Stipulation 1001, which the jury
9 will have with them, has to do with the video, which is
10 Exhibit 601, and Mr. Gillespie, the defendant, being
11 interviewed or responding to questions in that video, and
12 that the video is authentic in what it purports to be; and
13 any text associated with it that was provided by the
14 Associated Press has been blurred.

15 So because it has been admitted and can be
16 published at this point, we would like to play video 601 for
17 the jury; starting at about 14 seconds.

18 There is audio with this as well.

19 (Whereupon, the video was published.)

20 MS. SCHESNOL: You can pause it there. Thank you.
21 And you can take down the video, thank you.

22 I appreciate your help with those exhibits.

23 BY MS. SCHESNOL:

24 Q. Agent Adams, we have talked about the items that the FBI
25 recovered from the defendant's home when it was searched

1 back in February of this year.

2 Do you recall that?

3 A. Yes.

4 MS. SCHESNOL: May I approach the witness with
5 some physical exhibits?

6 THE COURT: Yes. Of course.

7 MS. SCHESNOL: May I approach the witness with
8 Exhibits 803, 802, and 801?

9 THE COURT: You may.

10 MS. SCHESNOL: Thank you.

11 Your Honor, the parties have one last stipulation,
12 Exhibit 1002.

13 May we admit that and publish it for the jury?

14 THE COURT: Any objection?

15 MR. WATKINS: No objection.

16 THE COURT: Hearing no objection, the stipulation
17 will be admitted and may be published.

18 MS. SCHESNOL: Thank you.

19 (Government's 1002, admitted and published.)

20 MS. SCHESNOL: So a stipulation of the parties
21 with regard to items obtained in the search of the
22 defendant's house is Exhibit 1002. And the parties agree
23 that the exhibits in government series 800 were seized
24 pursuant to legal process. Physical items have been in the
25 custody of the FBI from the time of their seizure, and the

1 parties stipulate to the chain of custody.

2 BY MS. SCHESNOL:

3 Q. Agent Adams, do you have scissors handy up there?

4 A. Yes.

5 Q. So turning your attention to Exhibit 8003.

6 Do you have access to 8003?

7 THE COURT: Do you just mean "803"?

8 MS. SCHESNOL: I'm sorry, Your Honor.

9 BY MS. SCHESNOL:

10 Q. 803.

11 A. Yes, I do.

12 Q. And can you describe, so that we can make a good record,
13 sort of what you are physically holding in your hands right
14 now?

15 A. I'm physically holding a paper bag that has a number of
16 words printed on it to include: Evidence, contents, dates
17 and time of recovery, location of recovery, recovered by;
18 additional writing, stickers, and a Government
19 exhibit labeled 803. It's also taped at the top, and it has
20 a clear plastic envelope on the back with some paperwork
21 inserted into the plastic.

22 Q. And can you summarize for us what all of the writings on
23 this bag actually mean?

24 A. Yes. This is how we collect evidence --

25 Q. By "we"?

1 A. The FBI collects evidence.

2 The FBI will place evidence in a paper bag, label
3 it, write pertinent and relevant information on it, attach a
4 chain of custody to it so we know that it has been properly
5 seized and properly stored, properly transported, properly
6 opened, if necessary, properly closed; and then taped and
7 re-taped as necessary.

8 Q. And is Exhibit 803 currently taped up?

9 A. Yes.

10 Q. And has -- is there any date marking the day that it was
11 originally seized?

12 A. Yes. It's marked 2/18/22.

13 Q. And is that the date, in fact, that it was seized from
14 the defendant's home?

15 A. Yes.

16 Q. And I am going to ask you to take your scissors and go
17 ahead and open it -- actually, before I do that.

18 Does it appear that the bag had been opened and
19 resealed at some point?

20 A. Yes.

21 Q. And when was that?

22 A. That was on December 2nd, 2022.

23 Q. And were you present for when it was opened and resealed
24 on December 2nd of this year?

25 A. Yes.

1 Q. And was that in preparation for trial?

2 A. Yes.

3 Q. Please take the scissors that you have and open up
4 Exhibit 803.

5 A. (Witness complies.)

6 Q. Have you opened up Exhibit 803?

7 A. Yes.

8 Q. Can you please remove the contents?

9 A. Yes.

10 Q. And what is contained in Exhibit 803?

11 A. 803 -- Exhibit 803 contains the brown envelope I was
12 describing earlier through the photograph.

13 Q. I believe the photograph was Exhibit 806 that depicted
14 this folder that you are describing?

15 A. Yes.

16 Q. So do we now have the actual physical folder that we saw
17 a picture of earlier?

18 A. Yes, we do.

19 MS. SCHESNOL: Your Honor, may the witness hold
20 that up for the jury?

21 THE COURT: Yes. You may.

22 BY MS. SCHESNOL:

23 Q. Hold it up carefully so things don't fall out.

24 And earlier, when we were talking about the
25 photograph Exhibit 806, we talked about a few of the

1 contents in that folder.

2 Can you just show the couple of things that we
3 talked about earlier?

4 A. Yes. I have, in my hands, the three receipts I
5 discussed earlier; the two from the Grosvenor Metro Station,
6 and the other from the Vienna, Virginia convenience store,
7 and the Metro card.

8 Q. And what is the date on all of the receipts?

9 A. All three of the receipts are January 6, 2021.

10 Q. And Metro card as well?

11 A. Yes. There is a Metro card as well.

12 Q. Does that appear to be for the greater DMV Metro transit
13 system?

14 A. Yes.

15 Q. Can you just hold those up for the jury, please.

16 A. (Witness complies.)

17 MS. SCHESNOL: Thank you.

18 THE COURT: Could I just interrupt to satisfy
19 something with my curiosity.

20 Why is it that the FBI stores evidence in a paper
21 bag that has to be cut open, rather than just a simple
22 plastic bag? Why is that?

23 MS. SCHESNOL: I have the same question,
24 Your Honor.

25 THE COURT: It's dramatic, I guess. You can cut

1 open a bag and reveal what is in the bag. But it just seems
2 a lot simpler if you put it in a plastic bag.

3 THE WITNESS: Your Honor, I am not an evidence
4 expert. But my understanding and recollection from training
5 is that we use paper bags because, when we get evidence that
6 is bloody or wet and it's proper to store them in paper, and
7 it's just easier to use paper for everything, rather than
8 having multiple supplies for paper and plastic. Again, I am
9 not an expert but that is why I understand we do the paper.

10 THE COURT: I just wondered. Maybe environmental
11 concerns on the part of the FBI, but I was just puzzled
12 about that.

13 Okay. Proceed.

14 MS. SCHESNOL: Thank you.

15 BY MS. SCHESNOL:

16 Q. Agent Adams, why don't we -- to make sure we don't lose
17 the contents of that folder, can you put the folder and its
18 contents back in the paper bag 803, but don't reseal it.

19 A. Yes.

20 Q. Turning your attention to Exhibit 802.

21 Can you describe for us what Exhibit 802 is?

22 A. 802 is a paper bag very similar to what I described
23 earlier. It is an FBI evidence bag. It has the same
24 markings I described earlier and the same chain of custody,
25 the tape, and the dates that we discussed earlier as well.

1 Q. So Exhibit 802 has the same dates, back in February and
2 earlier in December, that we have already discussed; is that
3 right?

4 A. That is right.

5 Q. And do you still have your scissors handy?

6 A. I do.

7 Q. Would you please open Exhibit 802?

8 THE COURT: Are you planning to admit these three
9 objects after he's already opened up all of the bags?

10 MS. SCHESNOL: Yes, Your Honor. I can do them one
11 by one as well.

12 THE COURT: No. That's okay. I would usually
13 admit everything before you start showing it all to the
14 jury. So it --

15 MS. SCHESNOL: I apologize, Your Honor.

16 THE COURT: I mean, there's been no objection. So
17 perhaps --

18 MR. WATKINS: We have no objection.

19 THE COURT: -- there is no objection to admission
20 of 802, 802, 803. I would feel a lot more comfortable
21 before we're showing everything to the jury to have the
22 evidence admitted.

23 MS. SCHESNOL: Yes, Your Honor. I will do that
24 before I ask the agent to hold up --

25 THE COURT: Why don't we just -- why don't you

1 just move to admit 801, 802, and 803; and we can move
2 through this smoothly. I think there is no objection to any
3 of those three objects.

4 Is that correct?

5 MR. WATKINS: That's correct.

6 THE COURT: All right. So 801, 802, and 803 are
7 admitted. Now, proceed. You can publish everything and the
8 contents to the jury.

9 MS. SCHESNOL: Thank you, Your Honor.

10 (Government's 801, 802, and 803, admitted.)

11 BY MS. SCHESNOL:

12 Q. Have you opened up Exhibit 802 yet, or are you still in
13 the process?

14 A. I have opened up 802.

15 Q. And can you please remove the contents.

16 And what was inside Exhibit 802?

17 A. Inside Exhibit 802 is the MSI, Mike-Sierra-India,
18 labeled backpack that I discussed earlier.

19 Q. That's the same backpack that we saw in the photograph,
20 Exhibit 805; is that correct?

21 A. That is correct.

22 Q. And since it's been admitted, can you please hold that
23 up for the jury to see.

24 A. (Witness complies.)

25 Q. And this backpack, Exhibit 802, is that consistent with

1 the various pieces of video and photograph that have already
2 been admitted and that you have testified to seeing the
3 defendant wear at the Capitol on January 6, 2021?

4 A. Yes.

5 Q. Turning to Exhibit 801 -- and you can put that backpack
6 back in the bag, but please don't reseal it.

7 If you would describe for us Exhibit 801, the bag
8 and its markings.

9 A. Exhibit 801 has the same -- is the same type of paper
10 bag I discussed earlier. It has the same markings, with the
11 exception of the evidence -- the exhibit number is
12 different. It has the chain of custody attached to it. It
13 has the same dates that the previous two bags had,
14 February 18, 2022, December 2nd, 2022, and additional
15 markings that the FBI placed on the bag.

16 Q. Would you please open the bag.

17 A. (Witness complies.)

18 Q. Please remove the contents.

19 What is Exhibit 801?

20 A. Exhibit 801 is the Berkshire Nautilus sweatshirt that I
21 testified to previously.

22 Q. And just to refresh all of our recollection, where was
23 this found?

24 A. This was found in the defendant's home during the course
25 of the execution of the federal search warrant.

1 Q. And is this the same sweatshirt that we have seen in all
2 of the various videos and photographs that are admitted into
3 evidence that the defendant wore at the Capitol on
4 January 6, 2021?

5 A. Yes.

6 Q. Can you please hold that up for the jury to see?

7 A. (Witness complies.)

8 MS. SCHESNOL: Thank you, Agent Adams.

9 The government has no more questions.

10 THE COURT: All right. Well, it's 12:30, so we're
11 going to break for lunch.

12 Well, let me just talk to the parties briefly for
13 one second.

14 (A bench conference was held as follows:)

15 THE COURT: Okay. I was going to give the jury a
16 little bit of a longer lunch. But do you really think we
17 need a longer lunch?

18 I mean, is the charging conference going to be
19 more than five, ten minutes?

20 MS. SCHESNOL: I hope not, Your Honor. But with
21 this one outstanding issue with the proposed verdict form on
22 the 231 count, we might need a few extra minutes to discuss
23 that.

24 THE COURT: And from the defense perspective?

25 I mean, are there any other things other than this

1 to discuss?

2 MS. O'NEILL-GREENBERG: I mean, we have a few
3 things to go through, but I don't think we would take more
4 than 10, 15 minutes.

5 THE COURT: Okay. I am going to tell them to come
6 back at 1:45. Okay. Thanks.

7 (Whereupon, the bench conference concludes.)

8 THE COURT: Okay. Ladies and gentlemen, we're
9 getting closer to the end of the trial, so this is where a
10 number of legal issues come up that I have to discuss with
11 the lawyers. I am going to give you a little bit longer for
12 lunch today; so not just one hour, one hour and 15 minutes.
13 If you could, come back at 1:45. Thank you.

14 Do not discuss the case among yourselves or with
15 anybody else.

16 (Whereupon, the jury exits the courtroom.)

17 THE COURT: All right. So what I would like to do
18 now is get started on the charging conference and just see
19 where there are issues where people need more time to
20 discuss or think, in which case we'll return at 12:30 to
21 complete it. But I just want to make sure I understand
22 where there are things we need to discuss.

23 So let's start with the circulation draft. And
24 then, as to Count 2 and to the verdict form -- I think you
25 have copies, right?

1 I think I have got the copy of the revised
2 Count 2, but not of the verdict form as revised.

3 Okay. So my law clerk is going to give you copies
4 of that, but let's just start on page 1.

5 Any objections on page 1 from the government?

6 MS. SCHESNOL: No, Your Honor.

7 THE COURT: From the defense?

8 MS. O'NEILL-GREENBERG: No, as to page 1.

9 THE COURT: Page 2, any objections from the
10 government?

11 MS. SCHESNOL: No, Your Honor.

12 THE COURT: Defense?

13 MS. O'NEILL-GREENBERG: Nothing.

14 THE COURT: Page 3, any objections from the
15 government?

16 MS. SCHESNOL: No objection, just the highlighted
17 portion at the bottom with regard to stricken evidence. I'm
18 not sure that --

19 THE COURT: Yes. I don't think I need that
20 other --

21 MS. SCHESNOL: Although, we might not be done with
22 evidence just yet, if the defense puts on --

23 THE COURT: I know. But, otherwise, I think I am
24 going to take that out; I usually don't do that anyway.

25 Any objections from the defense?

1 And if I'm not striking anything, any objections
2 to taking out the highlighted part?

3 MS. O'NEILL-GREENBERG: Taking out the highlighted
4 into 1.12?

5 THE COURT: At the very bottom of page 2, moving
6 over to page 3, removing that highlighted part.

7 MS. O'NEILL-GREENBERG: The bottom of page 3?
8 I don't have any high --

9 THE COURT: Through page 4, right.

10 MS. O'NEILL-GREENBERG: Yes. No objection to
11 that.

12 THE COURT: All right. Any objection to page 4
13 from the government?

14 MS. SCHESNOL: No, Your Honor.

15 THE COURT: Defense?

16 MS. O'NEILL-GREENBERG: Oh, apologies. We do have
17 an objection to 2.107 and 2.209. I'm sorry. I blew by
18 them.

19 THE COURT: Okay. That's on page 2?

20 MS. O'NEILL-GREENBERG: Page 2, 2.107.

21 Just a request that we add in a sentence that, in
22 this situation or in this case, Mr. Gillespie did elect to
23 testify, but the government's burden remains the same.

24 THE COURT: I'm sorry. So have you submitted in
25 writing what change you want to 2.107?

1 MS. O'NEILL-GREENBERG: We're just requesting that
2 there be an additional sentence in there saying --

3 THE COURT: That says what?

4 MS. O'NEILL-GREENBERG: That in this case
5 Mr. Gillespie did elect to testify, but the government's
6 burden remains the same. Just to be clear that, even though
7 he testified, the burden doesn't shift.

8 THE COURT: Any objection from the government?

9 MS. SCHESNOL: Your Honor, the government doesn't
10 believe that's necessary.

11 THE COURT: I am not going to add that. I just
12 think that that's very confusing. It's very clear. It says
13 at least three times in that paragraph the government has
14 the burden, so I am not going to add that.

15 What's your next objection?

16 MS. O'NEILL-GREENBERG: If you could just note our
17 objection for the record.

18 THE COURT: What's your next objection?

19 And did you raise that anywhere in -- anywhere,
20 other than at this very moment?

21 MS. O'NEILL-GREENBERG: No, we did not.

22 THE COURT: Okay. What is next?

23 MS. O'NEILL-GREENBERG: Next is 2.209.

24 THE COURT: 2.109?

25 MS. O'NEILL-GREENBERG: 2.209. I don't know if we

1 are there yet.

2 THE COURT: I am on page 3.

3 MS. O'NEILL-GREENBERG: Okay.

4 THE COURT: Do you have any objections to page 3?

5 MS. O'NEILL-GREENBERG: No, then we're caught up.

6 We're fine.

7 THE COURT: Okay. Page 4. Any objections to

8 page 4?

9 None from the government I take it?

10 MS. SCHESNOL: That's correct, Your Honor.

11 THE COURT: And from the defense?

12 MS. O'NEILL-GREENBERG: Nothing.

13 THE COURT: Page 5. Now, we're at page 5.

14 I think 2.208 is going to come out because the
15 defendant is going to testify. And 2.209. 2.305 comes in.
16 2.310 comes out. I don't think we have any recordings here.

17 And any objection to removing 2.208 and 2.310 on
18 page 5 from the government?

19 MS. SCHESNOL: No objection, Your Honor.

20 But I also -- I don't think we need 2.305. The
21 government did not elicit testimony --

22 THE COURT: Oh, yes. Because you haven't
23 introduced any statements, so you are absolutely right. I
24 think 2.305 comes out as well; all of that is highlighted.

25 And any objection from the defense to taking out

1 2.208, 2.305, and 2.310.

2 MS. O'NEILL-GREENBERG: No objection to taking out
3 those three, Your Honor.

4 An objection to 2.209.

5 THE COURT: Okay. And what's your objection?

6 MS. O'NEILL-GREENBERG: I would ask that it mirror
7 the instruction in 2.207 of police officer testimony.

8 THE COURT: Have you submitted in writing what you
9 are expecting and what you would like?

10 MS. O'NEILL-GREENBERG: We have not done that. I
11 can do that.

12 THE COURT: Have you done that in the joint
13 pretrial statement, should the defendant testify?

14 MS. O'NEILL-GREENBERG: No. Our --

15 THE COURT: This is the standard 2.209 from the
16 Red Book that's used regularly in this court.

17 MS. O'NEILL-GREENBERG: I would just add that, in
18 the general witness instruction that's given earlier, it
19 specifically instruct that --

20 THE COURT: So what are you suggesting
21 specifically?

22 MS. O'NEILL-GREENBERG: That it either be --

23 THE COURT: I need specific language. What are
24 you suggesting?

25 Are you suggesting a change to the line: A

1 defendant has a right to become a witness on his own behalf?
2 Any change in that sentence?

3 MS. O'NEILL-GREENBERG: Yes. And then, after
4 that --

5 THE COURT: What change do you want in the first
6 sentence?

7 MS. O'NEILL-GREENBERG: The exact same language
8 that is in 2.207, so it mirrors the exact same --

9 THE COURT: A defendant --

10 MS. O'NEILL-GREENBERG: Yes.

11 THE COURT: A defendant's testimony should be
12 evaluated by you just as any other evidence in the case?

13 MS. O'NEILL-GREENBERG: Yes. Just like any other
14 witness.

15 THE COURT: And that's the only change you want in
16 that paragraph?

17 MS. O'NEILL-GREENBERG: Yes. We don't want the
18 language that suggests that he -- the suggestion that he
19 should not be disbelieved merely because he is a defendant;
20 suggests that there is -- that the ground is disbelief, in
21 2.209. That's our issue with that.

22 THE COURT: So what you want to say is: A
23 defendant's testimony should be evaluated by you, just as
24 any other evidence in the case.

25 And you want to remove the sentence that says:

1 His testimony should not be disbelieved merely because he is
2 a defendant.

3 You want that out; is that what you're saying?

4 MS. O'NEILL-GREENBERG: That's correct. I think
5 if it mirrored 2.207: In evaluating --

6 THE COURT: And then -- if I'm going to take out
7 Sentence No. 2, what change do you want in Sentence No. 3?

8 MS. O'NEILL-GREENBERG: In evaluating the
9 defendant's credibility, you should use the same guidelines
10 that you apply to the testimony of any other witness, and
11 just leave it at that.

12 THE COURT: And you want to take out: You may
13 consider the fact that the defendant has an interest in the
14 outcome of this trial?

15 MS. O'NEILL-GREENBERG: I think that that's
16 clearly indicated in the general witness instruction that's
17 given before which says you can consider --

18 THE COURT: That objection is overruled. That
19 will stay in.

20 All right. As with the testimony of any other
21 witness, you should give the testimony as much weight --
22 blah-blah-blah.

23 Okay. Any objection to having this read follows:
24 A defendant's testimony should be evaluated by you just as
25 any other evidence in the case. In evaluating a defendant's

1 testimony, however, you may consider the fact that the
2 defendant has an interest in the outcome of this trial. As
3 with the testimony of any other witness, you should give the
4 defendant's testimony as much weight as in your judgment it
5 deserves.

6 Any objection to that?

7 MS. SCHESNOL: No objection, Your Honor.

8 THE COURT: All right. Page 6.

9 Any objection from the government on page 6?

10 MS. SCHESNOL: No, Your Honor.

11 THE COURT: On page 7, until we get to Count 2,
12 any objection from the government?

13 I have highlighted this language: In detaining
14 individuals who lacked authorization. I just didn't think
15 that was an issue here; I was going to suggest we take that
16 out.

17 MS. SCHESNOL: The government agrees with that
18 suggestion, Your Honor. I don't think it's necessary.

19 THE COURT: All right. As to the defense, any
20 objection on page 7 up until we get to Count 2?

21 MS. O'NEILL-GREENBERG: No. To take out the
22 detaining individuals highlighting --

23 THE COURT: Exactly.

24 MS. O'NEILL-GREENBERG: That's fine.

25 THE COURT: All right. Now, as to Count 2. If

1 you could turn to the insert, single page draft jury
2 instructions which, essentially, inserts the highlighted
3 paragraph; and the rest remains as it was in the circulation
4 draft.

5 And if the government needs more time to consult
6 with people they have looking at this, let me know. We'll
7 return to that later.

8 Is that the government's preference?

9 MS. SCHESNOL: Yes, Your Honor. Thank you.

10 THE COURT: Okay. So with respect to the
11 defendant, do you have any objection to the revised Count 2?

12 And if you need time to look at that, that's fine
13 too. Just let me know. We'll resume at 1:30.

14 MS. O'NEILL-GREENBERG: No. This is -- I mean,
15 this is substantively what we submitted. That's fine.

16 THE COURT: Essentially, yes.

17 MS. O'NEILL-GREENBERG: Yes.

18 THE COURT: Okay. Moving to page 8, and the
19 attempt, any objection from the government to page 8?

20 MS. SCHESNOL: No, Your Honor.

21 THE COURT: Defense?

22 If you need more time to think about that, then
23 just let me know. We'll resume at 1:30.

24 MS. O'NEILL-GREENBERG: No, Your Honor.

25 I am looking at page 8. I note that, I think, in

1 our joint proposed jury instructions we had the definition
2 of "knowingly," and I don't see it.

3 THE COURT: Because I put that up top. That
4 applies everywhere, I am not repeating it throughout.

5 MS. O'NEILL-GREENBERG: I don't think I see it in
6 Count 1 either.

7 THE COURT: Because it is on page 6: Before
8 discussing the charges, I will define the term "knowingly."
9 I am going to define that term for you because this term
10 will appear in many of the charges. A person acts
11 knowingly, blah-blah-blah.

12 MS. O'NEILL-GREENBERG: Okay.

13 THE COURT: I just didn't repeat it throughout.

14 MS. O'NEILL-GREENBERG: No objection to page 8.

15 THE COURT: Okay. Page 9.

16 Any objections from the government to page 9?

17 MS. SCHESNOL: No, Your Honor.

18 THE COURT: From the defense?

19 MS. O'NEILL-GREENBERG: No. No, Your Honor.

20 THE COURT: On page 10, any objections from the
21 government?

22 MS. SCHESNOL: No, Your Honor.

23 THE COURT: From the defense?

24 MS. O'NEILL-GREENBERG: Nothing.

25 THE COURT: I'm sorry?

1 MS. O'NEILL-GREENBERG: No. No objection.

2 THE COURT: Okay. Any objections on page 11 from
3 the government?

4 MS. SCHESNOL: No, Your Honor.

5 THE COURT: And from the defense?

6 MS. O'NEILL-GREENBERG: No.

7 We do have an objection to Count 8. But do you
8 want me to wait until page 12?

9 THE COURT: Perfect.

10 Page 12, any objections from the government?

11 MS. SCHESNOL: No, Your Honor.

12 THE COURT: And from the defense?

13 MS. O'NEILL-GREENBERG: In our joint proposed jury
14 instructions we had an objection to instructing on aiding
15 abetting and attempt; I'm just renewing that.

16 THE COURT: All right. And I have consider that
17 from the joint pretrial statement.

18 Anything else you want to add to that?

19 MS. O'NEILL-GREENBERG: No.

20 THE COURT: Okay. Well, I am overruling that
21 objection.

22 And what is -- just so the record is clear, what
23 precisely is your objection?

24 MS. O'NEILL-GREENBERG: In our joint proposed
25 instructions, it is our understanding that the evidence is

1 suggesting that Mr. Gillespie completed a completed act,
2 so -- and that's what the evidence shows as well.

3 So instructing on aiding abetting, instructing on
4 attempt I think is unnecessary and confusing to the jury.

5 THE COURT: Except he is charged with it.

6 So does the government think it's confusing to the
7 jury? Do you want to take it out? It would make it
8 shorter.

9 MS. SCHESNOL: We don't want to take it out,
10 Your Honor. This is the standard instruction that is given
11 in the 1512 cases.

12 THE COURT: Right. So to the extent that -- and
13 so I am just going to instruct.

14 On page 13. Does the government have any
15 objections on page 13?

16 MS. SCHESNOL: No, Your Honor.

17 THE COURT: And same objection?

18 MS. O'NEILL-GREENBERG: Just the same.

19 THE COURT: On aiding and abetting?

20 MS. O'NEILL-GREENBERG: Yes.

21 THE COURT: All right. Overruled.

22 Page 14. I just put in what I understand,
23 defendant, Vincent Gillespie's, theory of the case. There
24 hasn't been anything else submitted, but defendant denies
25 all charges. I have that highlighted because it's a

1 placeholder.

2 Anything else the defendant wants to say?

3 MS. O'NEILL-GREENBERG: Just one second.

4 THE COURT: And you can come back to me at 1:30.

5 MS. O'NEILL-GREENBERG: I was going to ask that
6 you just take it out.

7 THE COURT: Just take out Defendant Gillespie's
8 theory of the case entirely?

9 MS. O'NEILL-GREENBERG: Yes.

10 THE COURT: Fine. Perfect. I would be glad to do
11 that.

12 And for the government, any objection to page 14?

13 MS. SCHESNOL: No, Your Honor.

14 THE COURT: On page 15, I highlighted the redacted
15 exhibits. I am not sure we need that.

16 MS. SCHESNOL: Some of the exhibits were redacted,
17 specifically a Secret Service document had redactions and
18 one of the Safeway documents -- to redact people's emails,
19 things like that. But we didn't make extra redactions,
20 those were the redactions the way the exhibits came.

21 So, frankly, it makes no difference to me. I just
22 wanted to bring that to the Court's attention.

23 THE COURT: Does the defense have any perspective
24 on that?

25 MS. O'NEILL-GREENBERG: No. I don't think we --

1 THE COURT: My view is these are already fairly
2 long jury instructions. I think everybody -- they know what
3 has been presented. I think it's bringing attention to
4 something that's not an issue. I would take it out --

5 MS. SCHESNOL: That's fine, Your Honor.

6 THE COURT: -- which is why I highlighted it and
7 hoped everyone would agree.

8 MS. SCHESNOL: Thank you.

9 And just to be -- just to be clear, and we already
10 said it in the stipulation. But the AP video originally had
11 running, like -- not running, had text that, I guess, the AP
12 had added. We had that blurred out because we didn't --
13 with discussion with defense.

14 THE COURT: Does it say that in the stipulation?

15 MS. SCHESNOL: Yes.

16 THE COURT: Okay. Well, they'll see that.

17 MS. SCHESNOL: Okay.

18 THE COURT: This is a very smart -- D.C. juries
19 are pretty smart; they are going to get that. They know
20 what is important.

21 MS. O'NEILL-GREENBERG: And apologies. I found --
22 I counted one more thing that I missed on page 12, which
23 is --

24 THE COURT: 12.

25 MS. O'NEILL-GREENBERG: Page 12.

1 Count 8, on page 12, we didn't stipulate to the
2 term "official proceeding," meaning Congress's Joint Session
3 to certify the Electoral College vote. But that's in
4 paragraph -- the fourth full paragraph from the top -- from
5 the bottom of page 12. I would ask to take that out.

6 THE COURT: I'm sorry. The paragraph that begins,
7 "The term official proceeding" --

8 MS. O'NEILL-GREENBERG: Yes.

9 THE COURT: The term "official proceeding"
10 includes a proceeding before the Congress. The official
11 proceeding need not be pending or about to be instituted at
12 the time of the offense. If the official proceeding was not
13 pending or about to be instituted, the government must prove
14 beyond a reasonable doubt that the official proceeding was
15 reasonably foreseeable to the defendant. As used in
16 Count 8, the term "official proceeding" means Congress's
17 Joint Session to certify the Electoral College vote.

18 What's your objection?

19 MS. O'NEILL-GREENBERG: We didn't include that in
20 our stipulation.

21 THE COURT: And I don't care, it's a matter of
22 law. I am finding that it's -- I have found that it's an
23 official proceeding. Objection overruled as a matter of
24 law. It is an official proceeding.

25 MS. O'NEILL-GREENBERG: Okay. Please just note

1 our objection.

2 THE COURT: It's noted for the record.

3 All right. Now I think we are -- I think we
4 already have done page 15.

5 Any objections to page 16 from the government?

6 MS. SCHESNOL: No, Your Honor.

7 THE COURT: And from the defense, on page 16?

8 MS. O'NEILL-GREENBERG: Did we go over page 15?

9 THE COURT: Yes. That's where we talked about the
10 redacted exhibits.

11 MS. O'NEILL-GREENBERG: Oh, I'm sorry. Okay. Yes.

12 No. 16, no objections.

13 THE COURT: Do you have objections on page 15,
14 just so the record is clear?

15 MS. O'NEILL-GREENBERG: No. I just saw the
16 highlighted and I was worried we missed it.

17 THE COURT: The highlighted --

18 MS. O'NEILL-GREENBERG: The para --

19 THE COURT: Excuse me. The highlighted paragraph
20 on page 15 is being removed.

21 MS. O'NEILL-GREENBERG: Yes.

22 THE COURT: All right. Any other objections from
23 the defense on page 15?

24 MS. O'NEILL-GREENBERG: Not 15, not 16.

25 THE COURT: Fine.

1 All right. So we'll come back at 1:30 to discuss
2 the revision to the instructions and the verdict form on the
3 single Count 2.

4 MS. SCHESNOL: And just so the Court is not
5 blind-sided, the government is going to be objecting to
6 that. We can discuss it further at 1:30.

7 THE COURT: Fine.

8 MS. SCHESNOL: Thank you.

9 (Whereupon, a luncheon recess was taken.)

10 THE COURT: Okay. I think we're down to the
11 single issue on Count 2.

12 Is there anything else we need to discuss? Is my
13 recollection correct?

14 MS. SCHESNOL: Just Count 2, Your Honor. That's
15 correct.

16 THE COURT: All right. So I will hear the
17 government.

18 MS. SCHESNOL: Thank you, Your Honor.

19 It is the government's position that this proposed
20 verdict form is legally unnecessary and potentially
21 confusing because these are two alternate means by which the
22 crime can be accomplished, not elements. And there is case
23 law that say elements must be unanimously found by the jury,
24 but -- but the means by which an element is proven need not
25 be unanimously agreed to by a jury. I don't think that --

1 THE COURT: Actually, I am not sure I am following
2 you. This is sort of the jurisdictional elements for 231.
3 I think you would agree that usually, in most cases, the
4 jurisdictional elements are stipulated to. And, frankly, as
5 a trial lawyer, I know they are usually stipulated to by the
6 defense because it's so easy to prove the jurisdiction and
7 it makes it so easy for a jury to go, oh, that's simple. If
8 that is so simple, gosh, he must be guilty.

9 So usually there are stipulations to the
10 jurisdictional elements without us having to ask the jury to
11 prove them, and you have amply established in multiple ways
12 the jurisdictional elements. So they're going to say, gosh,
13 that's easy. I don't know -- I don't know why the
14 government objects so strongly, almost as a policy, to
15 requiring, when there is no stipulation on the
16 jurisdictional element, that there be, you know,
17 interrogatories to ensure that there is unanimity on the
18 right jurisdictional hook.

19 So I -- actually, as a strategy matter, the jury
20 is going to look at these two questions and go: Really?
21 That easy? And they're going to -- they're going to -- you
22 know, of course it's set up so that they don't get to the
23 two jurisdictional questions until they have decided whether
24 he is guilty or not on the 231.

25 But I have to say, I don't know why the government

1 objects so much. I think the defense pointed this out. But
2 Judge Amy Berman-Jackson in a case *U.S. v. Williams*, just in
3 November 2022, she -- I guess there was no stipulation there
4 either on this jurisdictional element. I guess the defense
5 there made the same strategic choice that the defendant here
6 did, and the defendant was found guilty -- looking at the
7 verdict -- of everything.

8 I just don't think -- and, frankly, I think, as a
9 matter of law, there is no stipulation so the jury can
10 answer these questions.

11 So if you want to make your record, I am going to
12 give you time to make the record. But I just want you to
13 know as a matter of strategy, as a matter of law, I am just
14 going to ask the two questions.

15 MS. SCHESNOL: That is certainly fine, Your Honor.
16 Our only concern was that it could be more confusing than
17 anything. That being said, we --

18 THE COURT: Well, do you have any better way to
19 explain it than I have got in the draft jury instructions?

20 MS. SCHESNOL: No, Your Honor. We are fine with
21 the language proposed under the circumstances. Thank you.

22 THE COURT: Fine. Okay.

23 Anything the defense wants to add?

24 MS. O'NEILL-GREENBERG: No. We're fine with the
25 proposed instruction and verdict slip.

1 THE COURT: Okay. So Count 2 is done.

2 Any other things that anybody wants to discuss
3 about the jury charge?

4 MS. SCHESNOL: Not from the government.

5 Thank you.

6 THE COURT: And from the defense?

7 MS. O'NEILL-GREENBERG: Not from the defense.

8 Thank you.

9 THE COURT: Okay. Good.

10 (Whereupon, the Court and staff confer.)

11 THE COURT: Usually, I do ask -- and Ms. Schesnol
12 is aware -- I let you -- if the parties both agree, I can do
13 the jury instructions prior to summations. And sometimes,
14 when there are multiple counts, it sometimes spares the
15 lawyers time in explaining them if I go before the
16 summations. But, of course, that means that the government
17 will have the last word on rebuttal before the jury goes
18 back to deliberate.

19 So the question -- so the default is I will give
20 the summation and be the last -- I'll give the final jury
21 instructions, I will be the last voice the jury hears before
22 deliberations; that's the default. If both parties would
23 prefer for me to give the instructions before summations, I
24 am happy to do that too. I am easy.

25 Do the parties want to confer or the defense

1 already knows they want me to be the last voice?

2 I see Mr. Watkins nodding.

3 MS. O'NEILL-GREENBERG: We would like you to be
4 the -- yes.

5 THE COURT: Okay. I am going to give the
6 instructions after summations.

7 Okay. I think that's good.

8 Teresa, do you want to see if the jury is here?
9 If they are all here, we can start -- Mr. Watkins, did you
10 want to take a break?

11 MR. WATKINS: Yes, one moment.

12 (Whereupon, the jury returns to the courtroom.)

13 THE COURT: All right. Ladies and gentlemen,
14 we're about to begin the cross-examination of Agent Adams.

15 Please proceed, Mr. Watkins.

16 MR. WATKINS: Thank you.

17 CROSS-EXAMINATION

18 BY MR. WATKINS:

19 Q. Good afternoon, Special Agent Adams.

20 A. Good afternoon.

21 Q. Stating the obvious, you were not on the Capitol grounds
22 on January 6, 2021?

23 A. I was not on the Capitol grounds.

24 Q. And you certainly weren't in the lower west terrace
25 tunnel in 2021?

1 A. Definitely not.

2 Q. You have been with the FBI for a long period of time
3 now?

4 A. Yes.

5 Q. You have done a number of training courses?

6 A. Yes.

7 Q. Training courses in extrasensory perception, does the
8 FBI offer those?

9 A. Not to my knowledge.

10 Q. Training in mind reading, does the FBI offer classes in
11 that?

12 A. No.

13 Q. So in the lead up to trial -- well, all along during
14 your investigation and lead up to the trial, you have been
15 talking to a number of law enforcement members that were
16 present in the tunnel; is that right?

17 A. That's right.

18 Q. And those interviews with law enforcement agents, those
19 are coloring the narrative that -- those are data points you
20 use in the narrative you give us; is that correct?

21 A. I don't understand that question.

22 Q. You have interviewed dozens of officers that were
23 involved in the January 6th case, correct?

24 A. I wouldn't characterize it as "dozens." I have
25 interviewed officers that were involved.

1 Q. And particularly officers that were in the lower west
2 terrace tunnel?

3 A. Yes.

4 Q. Sergeant Riley, of course?

5 A. Yes.

6 Q. Several times, right?

7 A. Yes.

8 Q. You said you have gone over the video yourself many,
9 many times?

10 A. Yes.

11 Q. And you have gone over the video with Sergeant Riley,
12 right?

13 A. Correct.

14 Q. You have gone over the video with Mustafa Ak also?

15 A. Yes.

16 Q. Many times there, right?

17 A. Several times.

18 Q. And stopping it all along and saying: What about this?
19 What about that? Going frame by frame, much like you did
20 here, right?

21 A. Yes.

22 Q. And it was interviews with them that informed your
23 narration when you were talking to us about what you said
24 was going on in the tunnel there, right?

25 A. I'm sorry. I still don't understand.

1 The interviews are taken from notes that we take
2 during the actual interview, and then we transcribe those
3 into a report.

4 Q. Got it.

5 So I'm talking about the actual interviews for
6 which you are present, right?

7 A. Yes.

8 Q. And in addition, you also read reports that maybe you
9 weren't present for but you read through 302s?

10 A. Yes.

11 Q. And those go into your mind about what was happening in
12 the lower west terrace tunnel, right?

13 A. Yes.

14 Q. Because you weren't there?

15 A. Correct.

16 Q. I wasn't there.

17 A. I don't know.

18 Q. We're trying to get a sense of how to -- what was going
19 on down there in the tunnel on that day, right?

20 A. Right.

21 Q. And that's how you did it, by reading reports and
22 actually talking directly with law enforcement agencies.
23 That gave you your understanding, along with the video,
24 about what was happening down there, right?

25 A. I would say those were components that led to the

1 overall understanding.

2 Q. Right. We talked about a search warrant that was
3 investigated -- that was executed in Athol, Massachusetts,
4 Mr. Gillespie's home?

5 A. Yes.

6 Q. You began -- you were assigned to this investigation
7 before that, right?

8 A. Yes.

9 Q. Several months before that, right?

10 A. About -- to be precise, about eight or nine months.

11 Q. Eight or nine months. So working back from February,
12 that would have been last -- the summer of 2021, right?

13 A. Correct.

14 Q. And you talked about some of the methods you used,
15 surveillance, internet, witness interviews. You used all of
16 those in Mr. Gillespie's case; is that correct?

17 A. Yes.

18 Q. And not only that, we all know that there are really
19 hundreds of January 6th cases, right?

20 A. Yes.

21 Q. There are many FBI agents working. Each one has a --
22 each January 6th investigation has a case agent, right?

23 A. Correct.

24 Q. And you all meet about how to investigate January 6th
25 cases?

1 A. No.

2 Q. There are regular bulletins about how to investigate
3 January 6th cases?

4 A. I have received almost no bulletins on how to
5 investigate these cases from the FBI.

6 Q. Is this your only January 6th case, or do you have
7 others?

8 A. I have others.

9 Q. So there are some -- from your experience, you know that
10 there are some aspects of investigations that are very, very
11 helpful, right?

12 A. Sure.

13 Q. You talked about surveillance, for example. And that's
14 something you did in Mr. Gillespie's case, right?

15 A. Correct.

16 Q. You had yourself and local officers in Massachusetts
17 watch him for really several weeks, right?

18 A. No. That is not a correct characterization.

19 Q. Two, three weeks?

20 A. No.

21 Q. In advance of the search warrant execution, you were
22 surveilling Mr. Gillespie?

23 A. Yes.

24 Q. Photographs were taken of him walking around Athol, for
25 example?

1 A. Correct.

2 Q. Leaving his house, for example?

3 A. Yes.

4 Q. And watching him in Athol, right?

5 A. To develop character -- excuse me. To develop pattern
6 of life mostly for the arrest, for agent's safety. Frankly,
7 for the subject's safety. The safety of anybody in the
8 vicinity of the house we're going to knock on.

9 Q. In addition to the surveillance of Mr. Gillespie, you
10 also interviewed witnesses in and around the Athol area?

11 A. Yes.

12 Q. Witnesses further afield from the Athol area, as well,
13 right?

14 A. Yes.

15 Q. And this is all in investigation and all in preparation
16 for executing the search warrant, correct?

17 A. No. It's for the search warrant, for continuing to
18 investigate, see if we could find additional evidence.

19 Q. You are right. I said it wrong.

20 First it was to -- eventually, you did get a
21 search warrant based on some of that information, right?

22 A. Correct.

23 Q. And then you continued to develop that information in
24 preparation for trial and just generally, correct?

25 A. Correct.

1 Q. One of the things you mentioned was monitoring the
2 internet or doing internet investigations, right?

3 A. I believe my words were scouring; looking through the
4 internet to see if we can find images of Mr. Gillespie. See
5 if we could find potential statements he might have made,
6 which we did. See if we could find additional photos of him
7 at the Capitol, which we did; so yes.

8 Q. And that is publicly available information, I think what
9 Ms. Schesnol called "open source"?

10 A. Correct.

11 Q. These are looking for images of Mr. Gillespie not just
12 about January 6th but, really, about anything, right?

13 A. I look for anything inculpatory, exculpatory, and did
14 the very best I could to find images of him.

15 Q. And it's not only you, but other people, colleagues of
16 yours, are also doing the same thing, right?

17 A. Correct.

18 Q. Social media, a subset of going on the internet, that is
19 also something that you investigated?

20 A. Yes.

21 Q. And others under your direction investigated as to
22 Mr. Gillespie?

23 A. Yes.

24 Q. The FBI has many tools to get actual social media
25 evidence?

1 A. We do. Yes.

2 Q. You can get an administrative subpoena to find out
3 information; you can get a search warrant to have Facebook
4 cough up all of the information?

5 A. Yes.

6 Q. Instagram, the same?

7 A. Yes.

8 Q. Twitter? You can investigate getting Twitter posts,
9 right?

10 A. Sure.

11 Q. And on and on. We have so many social media platforms,
12 they're coming up every day. But you can -- you can get
13 those if you need to, right?

14 A. Certainly.

15 Q. And in your January 6th cases and other January 6th
16 cases, you have knowledge -- you do know that that is a
17 fruitful avenue for exculpatory information?

18 A. It certainly can be.

19 Q. And for inculpatory information, right?

20 A. Absolutely.

21 Q. In many of your own investigations there are people
22 talking about going to the rally and going to the Capitol in
23 advance?

24 A. I wouldn't say in my investigations but, certainly, in
25 FBI investigations.

1 Q. Sure. And you keep track of the trials that happen here
2 in this courthouse as well, right?

3 A. I wouldn't say close. I do monitor for just general
4 trends.

5 Q. And so you do know that in other trials, other
6 investigations, there are often lots of posts on social
7 media in readiness for the January 6th rally and then, later
8 on, going down to the Capitol, right?

9 A. Right.

10 Q. And some of them are very specific about things that
11 they are going to do when they come down on January 6th,
12 right?

13 A. Sure.

14 Q. And then also social media afterwards for folks that did
15 come down and participate, many of them have posted on
16 social media as well, right?

17 A. Right.

18 Q. And larger platforms about what they did, right? News
19 platforms or just websites, all kinds of things.

20 A. Yes. Yes.

21 Q. And those are things that would be relevant and material
22 evidence that you would be looking for to show a person's
23 planning, right?

24 A. Sure.

25 Q. If somebody said: I am going down to the Capitol to do

1 business on January 6th, that's something you would want to
2 see, right?

3 A. Yes.

4 Q. And, of course, that would also go to a person's
5 knowledge about what was going on, the certification
6 procedure, right?

7 A. Yes.

8 Q. If someone said: I am going to go down to stop Congress
9 from doing the certification, that is very, very relevant
10 evidence here for trial in a case, right?

11 A. Yes.

12 Q. And the person's intent also, about what it is
13 they're -- they're planning to do when they get down here,
14 the kinds of acts that they might -- might commit, these
15 social media posts can be very, very fruitful for that,
16 right?

17 A. They can be.

18 Q. You did subpoena Vincent Gillespie's Facebook records,
19 correct?

20 A. Yes.

21 Q. And ultimately obtained all of the Facebook records,
22 right?

23 A. Yes.

24 Q. And were there posts planning for January 6th on Vincent
25 Gillespie's Facebook?

1 A. No.

2 Q. Were there posts lauding what had happened on
3 January 6th from those Facebook records?

4 A. No.

5 Q. And if there was anything that was inculpatory, that
6 would have been something you brought to Ms. Schesnol's
7 attention, right?

8 A. Correct.

9 Q. Same for other social media platforms, you tried to get
10 the same information from other sources, right?

11 A. Yes.

12 Q. Again, nothing was found, right?

13 A. That's correct.

14 Q. And that's why we're not seeing anything here in court.

15 I want to go to -- talk about Safeway.

16 I am putting up Exhibit 502, which has already
17 been admitted. The very first nonredacted line in that
18 says: There is in place a 6:00 p.m. to 6 a.m. citywide
19 curfew throughout Washington, D.C., tonight, Wednesday,
20 1/6/21.

21 Is that accurate?

22 A. Yes.

23 Q. And you are familiar with what that -- to what that is
24 referring to, correct?

25 A. Yes.

1 Q. That is referring to Mayor Bowser's decision to impose a
2 curfew in Washington, D.C.?

3 A. Correct.

4 Q. Which she did sometime that afternoon on January 6th,
5 correct?

6 A. I think so.

7 Q. She didn't say immediate curfew. She said a curfew at
8 6:00 p.m., right?

9 A. I don't know the specific time she said it.

10 Q. All right. You do know that an alert went out to
11 everyone in the city on text messages about the curfew,
12 right?

13 A. I don't know personally. I would assume social media,
14 news, word of mouth would have circulated that information.

15 Q. Right. And so the curfew was to start, again, not
16 immediately, not at five o'clock; not until six o'clock,
17 right?

18 A. That's what the Safeway email says. I don't know what
19 the mayor's office put out as far as information regarding
20 the curfew.

21 Q. During the investigation you have had a chance to look
22 at Mayor Bowser's actual order about the curfew?

23 A. I have not seen the actual order, no.

24 Q. But this is something that you do know from your
25 investigation of the case, that there was a curfew. And

1 it's -- was there a curfew, to your knowledge, issued by
2 anybody else about Washington, D.C.?

3 A. Not to my knowledge. I believe it was from
4 Mayor Bowser.

5 Q. Right. Frankly, she's the only person that could do it.
6 She is the mayor of Washington, D.C., she would have to do
7 it, right?

8 A. I would agree with that.

9 Q. And the line directly below says: All D.C. stores will
10 close at 4:00 p.m., with plans to reopen at 6:00 a.m.,
11 7:00 a.m. on January 7th, right?

12 A. Yes.

13 Q. And night crews will not be in place, right?

14 A. Correct.

15 Q. And that is the line directly under the curfew -- let me
16 get it up because we're -- it's like neither one of us reads
17 very well without glasses.

18 It's directly below the 6:00 p.m. to 6:00 a.m.
19 citywide curfew message, right?

20 A. Correct.

21 Q. And from a business point of view, that makes perfect
22 sense if Safeway -- if there is going to be a curfew at
23 6:00 p.m., you don't want to keep your employees there until
24 6:00 p.m. because then they would be violating the curfew.

25 Is that -- is that fair to say?

1 A. That's fair.

2 Q. And that curfew didn't start until 6:00 p.m. on
3 January 6th, right?

4 A. Again, I don't know what time the curfew started. I
5 know what time Safeway told their employees the curfew
6 started. One can infer they are correct, but I don't have
7 personal knowledge of when the curfew started.

8 Q. And you have no reason to disbelieve that the curfew
9 started at 6:00 p.m., right?

10 A. No.

11 Q. I am showing you Exhibit 504. This is page 2 of
12 Exhibit 504 that was already admitted.

13 This talks about the Pennsylvania shipping issue,
14 the warehouse shipments from Pennsylvania that you and
15 Ms. Schesnol referred to. These are by date.

16 And, here, shipments were sent on January 6th from
17 Pennsylvania. Isn't that the gist of this?

18 A. My understanding is that is the date the shipments were
19 supposed to go. I don't know if those were actually shipped
20 on the 6th.

21 Q. Well, you can see actual dollar figures here in these --
22 these columns, and the percentage there?

23 Do you see those?

24 A. Yes.

25 Q. And those are consistent with other days from before,

1 these percentages, and the kinds of totals there. Aren't
2 they?

3 A. Yes.

4 Q. So at least as to January 6th, from Pennsylvania's point
5 of view, it was the same as any other day, right?

6 A. Yes.

7 Q. And you know from other evidence, the receipt from
8 Mr. Gillespie's house, that he was gone the night of
9 January 6th, right?

10 A. I cannot tell from the receipts. I know when he
11 purchased the products the receipts are from; but I can't
12 tell from the paperwork when he left the District.

13 Q. I want to talk next about the actual search of
14 Mr. Gillespie's home.

15 That wasn't just you searching the home, right?

16 A. Correct. As a matter of fact, I did not search the
17 home. The FBI team searched the home. I was with the
18 defendant during the --

19 Q. But you were present at the time, right?

20 A. Present with Mr. Gillespie at the arrest site, which was
21 not his home.

22 Q. Right. Sure. Close by Athol, Massachusetts, right?

23 A. Yes.

24 Q. And at the end of the search, you spoke -- and maybe
25 during the search you spoke with all of the searching agents

1 there?

2 A. Not during. I was busy during. Afterward, yes.

3 Q. That's what I was questioning.

4 Afterwards, you all got together to look through
5 what it was that you found there, right?

6 A. Not necessarily looked -- yes. Processed, discussed.
7 Processed the evidence is probably the best way to describe
8 it.

9 Q. And the FBI just doesn't go in with one or two special
10 agents on a search; there were eight?

11 A. I don't recall the number, but we -- as a matter of
12 agent safety and, again, frankly, the safety of the people's
13 homes we're searching or arresting, the safety of everybody
14 around them, we go in with overwhelming force to deter a
15 potential attack on an FBI agent or our task force officers
16 and using overwhelming numbers to get the job done quickly,
17 efficiently, safely, and properly.

18 Q. And part of the job is searching the entire premises
19 when you get to the place, right?

20 A. Yes.

21 Q. But what you are looking for is exculpatory evidence at
22 that point, right?

23 A. We're looking for evidence in the search warrant. If
24 there are items that we find that might be potentially of
25 evidentiary value, we have an open line to the U.S.

1 Attorney's Office, the AUSAs. But we're not -- we're
2 looking for -- we're looking for evidence in the quest for
3 justice.

4 Q. Evidence of crimes? That's what you get the search
5 warrant for, is evidence of crimes, right?

6 A. That is what is listed on the search warrant.

7 Q. Right. And so that is what you are looking for, is
8 evidence that would show a crime has been committed and
9 Mr. Gillespie committed it, right?

10 A. Correct.

11 Q. That's what you have to show the magistrate. That's
12 what you did here, say: We're going to find things here, we
13 think, right?

14 A. We told the magistrate, in coordination with the AUSAs,
15 the Assistant U.S. Attorneys, what we thought we might find
16 in the house based on the video evidence of the defendant at
17 the Capitol.

18 Q. So when these agents go -- once they have secured a
19 residence, then they all participate in the search, right?

20 A. Yes.

21 Q. And you have heard Mr. Gillespie -- have you ever been
22 to Mr. Gillespie's house?

23 A. I have never been in Mr. Gillespie's house, no.

24 Q. But you have talked with other agents who have?

25 A. Yes.

1 Q. It sounds like you have been outside to view the home?

2 A. I certainly have.

3 Q. So you know it's a single-family multi-bedroom house
4 there, right?

5 A. Yes.

6 Q. And the agents told you that they looked in every single
7 room and in the basement and in the attic -- everywhere?
8 They were careful to try to search out everything, right?

9 A. Yes. Once they have cleared the house for law
10 enforcement's safety and, again, for the safety of other
11 people who might be inside, then they start the deliberate
12 search of the residence.

13 Q. And that search was photographed as well and cataloged,
14 everything that was done that particular day?

15 A. Correct.

16 Q. And before going in to search, the search team is
17 briefed about: This is what we're looking for? -- these are
18 the kinds of things we might find in there, right?

19 A. Yes.

20 Q. So the agents are not ignorant about what they're
21 looking for, they're -- it's very specific as to
22 January 6th? You share the search warrant affidavit with
23 them to talk about what might be there; is that correct?

24 A. Yes.

25 Q. And the search, do you know how long it took those many

1 agents to search that day?

2 A. I would have to refresh my memory because I wasn't at
3 the house. The best recollection, having reviewed the notes
4 from the search, was approximately two hours.

5 Q. Yeah. And that was all of those agents on the scene,
6 including the photographer and the evidence collector.
7 They're all there for a couple of hours looking in every
8 room, right?

9 A. Yes.

10 Q. And looking in every folder and filing cabinet and
11 dresser. Everything in a house is fair game with that
12 search warrant, right?

13 A. Right.

14 Q. And I think what you have testified to is: After that
15 search, you found the backpack, the sweatshirt, and a folder
16 of documents?

17 A. I would characterize it as during the search, not after
18 the search; but yes.

19 Q. Yeah, during. During the search, right, you found those
20 things?

21 A. Yes.

22 Q. And aside from the sweatshirt and the backpack, the sum
23 total of it was this folder that was wrongly entitled
24 "Washington, D.C. January 6, 2020"?

25 A. Yes, correct.

1 THE COURT: Mr. Watkins, if you want it
2 published --

3 MR. WATKINS: Oh, I'm sorry.

4 THE COURT: -- just give me the exhibit number,
5 and Ms. Gumiel will --

6 MR. WATKINS: I'm very sorry.

7 THE COURT: To double-check, it's 806, I believe?

8 MR. WATKINS: That's correct, 806.

9 THE COURT: Okay. And you would like this
10 published?

11 MR. WATKINS: I would like this published. This
12 is already in evidence.

13 THE COURT: Ms. Gumiel, it's been admitted.
14 Please publish it.

15 (Whereupon, the exhibit was published.)

16 BY MR. WATKINS:

17 Q. So this folder with the January -- or Washington, D.C.,
18 January 6th, 2020, that was the folder that agents searching
19 brought back -- recovered from the search, right?

20 A. Yes. And just to be completely clear, when you say
21 "agents," they're also task force officers. So not
22 necessarily FBI agents, but other law enforcement officers
23 who are members of the joint terrorism task force that are
24 sworn and, for all intents and purposes, act with the
25 authority of the FBI in a federal search warrant.

1 Q. Of course. In Massachusetts, for example, the
2 Massachusetts State Police might be on a task force agency,
3 a deputy -- sheriffs might be on the task force. There
4 might be other federal law enforcement that would also be on
5 the task force?

6 A. Correct.

7 Q. If I say "agents" -- is it okay if I say "agents," and
8 that includes everybody?

9 A. Yes.

10 Q. Okay. So, anyway, after this two-hour search with the
11 agents at the house, this was, as far as documents, the sum
12 total of what was found there; is that correct?

13 A. That is correct.

14 Q. And the agents told you or shared with you there were
15 many, many files. There was paperwork everywhere there,
16 right?

17 A. Yes.

18 Q. Just not having anything to do with January 6th, right?

19 A. Correct.

20 Q. I think you talked about the Metro card already, and
21 these three receipts. But there is also this handy guide to
22 the Washington D.C. Metro that was in this folder?

23 A. Yes.

24 Q. And then, also another pamphlet: Eliminate the Demon
25 CCP, referring to the Chinese communist, right?

1 A. Yes.

2 Q. And that was everything that was in this Washington,
3 D.C., January 6th folder, right?

4 A. Correct.

5 Q. Okay. Other things that you have looked for and perhaps
6 found in connection with January 6th cases would be tactical
7 gear?

8 A. I have not executed other warrants -- I take that back.
9 I did assist in the execution of a search warrant in
10 February or March of 2021. Did not find tactical gear at
11 that home.

12 Q. But that's something you would be looking for. That
13 would be very, very inculpatory evidence, right?

14 MS. SCHESNOL: Objection, Your Honor, as to what
15 was searched for in other cases as to relevance.

16 THE COURT: I am going to give Mr. Watkins some
17 leeway in his cross-examination. Overruled.

18 MS. SCHESNOL: Okay.

19 BY MR. WATKINS:

20 Q. You didn't find gas masks at -- or agents searching did
21 not find gas masks at Vincent Gillespie's home?

22 A. Correct.

23 Q. No chemical weapons?

24 A. No.

25 Q. No bear spray?

1 A. No.

2 Q. No camouflage clothing?

3 A. No.

4 Q. Ammunition belts or utility belts?

5 A. Not to my knowledge.

6 Q. Batons, nunchucks, anything like that found?

7 A. We did find weapons. The Athol police seized those
8 weapons, but none of the nunchuks --

9 Q. Not batons, not nunchuks?

10 A. No.

11 Q. Not -- what about banners and flags -- MAGA banners, and
12 flags?

13 A. Not to my knowledge.

14 Q. And that would be inculpatory, wouldn't it?

15 If those kinds of things were found, that would be
16 something you would expect the agents to take?

17 A. Yes.

18 Q. What about bullhorns. We heard people shouting. Any
19 bullhorns found around Mr. Gillespie's home?

20 A. Again, I wasn't in the house.

21 But having read the -- what we call FD-302, the
22 form, the record of a proceeding like that, I don't recall
23 having seen that in the 302s or having, frankly, heard
24 discussions about any of that; so no.

25 Q. And, obviously, if something like that were there,

1 perhaps that would be evidence here at trial? You might
2 think about bringing it in as evidence?

3 A. Yes.

4 Q. I am going to turn now to Exhibit 601, but I am actually
5 going to turn to a series of screenshots which have not been
6 admitted into evidence.

7 MR. WATKINS: These should just go to the witness
8 for the moment.

9 BY MR. WATKINS:

10 Q. Agent Adams, do you recognize this as being part of the
11 video -- the AP video that we just watched?

12 A. I am seeing a blank screen right now. I don't see
13 anything.

14 Q. I got it up on mine.

15 A. It says, "source disconnected."

16 Oh, it just appeared -- it just appeared on my
17 monitor.

18 Q. Do you recognize that as a screenshot from the AP video
19 that you went through?

20 A. I do.

21 Q. Did you assist in taking that screenshot or have you
22 seen that screenshot in the past?

23 A. I have seen the screenshot, yes.

24 Q. Is that a fair and accurate representation of a
25 portion -- a shot in time of the AP video?

1 A. Yes.

2 MR. WATKINS: I would move to admit Government's
3 Exhibit 601.3.

4 THE COURT: It's already been -- that's what --
5 you don't want to have it as a defense exhibit?

6 MR. WATKINS: It hasn't been entered into evidence
7 yet, so we'll need to admit it. It's the government's
8 exhibit, but I don't think they introduced it.

9 THE COURT: But it has not been admitted by the
10 government. Do you want to just keep the government exhibit
11 numbers rather than just adding to the defense exhibit
12 numbers?

13 MR. WATKINS: Exhibits are exhibits, Your Honor.
14 I think it's fine to have them come in as 601.3. The record
15 is clear that --

16 THE COURT: Okay. Any objection to 601.3 going
17 in?

18 MS. SCHESNOL: No, Your Honor.

19 THE COURT: Hearing no objection, 601.3 is
20 admitted and may be published.

21 (Government's 601.3, admitted.)

22 MR. WATKINS: I am going to introduce three more.
23 Perhaps I will do that all in a row, and then we can --

24 THE COURT: That would be helpful.

25 BY MR. WATKINS:

1 Q. Next, Agent Adams, I'm showing you 601.1.

2 Do you see that?

3 A. Yes.

4 Q. Is that a fair and accurate screenshot of the AP video
5 that you narrated for us before?

6 A. Yes.

7 MR. WATKINS: I would move to admit Government's
8 Exhibit 601.1.

9 MS. SCHESNOL: No objection, Your Honor.

10 THE COURT: Hearing no objection, that will be
11 admitted.

12 (Government's 601.1, admitted.)

13 THE COURT: I thought you were going to do the
14 whole series of them. So are you just introducing two?

15 MR. WATKINS: I'm sorry?

16 THE COURT: Are you just introducing two of these?
17 I thought you were going to go through --

18 MR. WATKINS: Four. All right.

19 THE COURT: Why don't you go through the other
20 ones you want to introduce, and then we can just do it all
21 at one time.

22 BY MR. WATKINS:

23 Q. I'm showing you another screenshot; this will be 601.2.

24 Do you recognize that?

25 A. Yes.

1 Q. And was that a fair and accurate -- the last one, was
2 that a fair and accurate screenshot from the AP video?

3 A. Yes.

4 Q. Finally, 601.4. It's on your screen now.

5 Is that a screenshot that you and/or the
6 government produced from that video?

7 A. Yes.

8 MR. WATKINS: I would move admission of 601.1,
9 601.2, 601.3, and 601.4.

10 THE COURT: Any objection?

11 MS. SCHESNOL: No, Your Honor.

12 THE COURT: Hearing no objection, they will all be
13 admitted and may be published.

14 (Government's 601.2, 601.3, and 601.4, admitted
15 and published.)

16 BY MR. WATKINS:

17 Q. I'm showing you 601.3, which is a still from the video
18 that you narrated on direct examination.

19 A. Yes.

20 Q. Mr. Gillespie is squirting water into his eye?

21 A. Yes.

22 Q. And that is -- let me ask you. Have you ever been on
23 the receiving end of chemical spray?

24 A. Yes.

25 Q. That's part of your training?

1 A. Yes.

2 Q. And is it consistent to use water to try to mitigate?

3 A. Actually, milk is the preferred method. Water really
4 doesn't do anything but, in some cases, make it worse.

5 Q. Putting up before you 601.1, I am going to focus in on
6 the left side of Mr. Gillespie's head.

7 Do you see abrasions there?

8 A. Yes.

9 Q. Contusions?

10 A. Yes.

11 Q. And again -- this is 601.2, a different angle, on the
12 same side of the head, of the abrasions?

13 A. Yes.

14 Q. And then 601.4, on the other side of the head. Do you
15 also see abrasions there?

16 A. Yes.

17 Q. On direct examination you told us that during the tunnel
18 vision, the closed-camera circuit -- the closed-circuit
19 television from in the tunnel that you could see
20 Mr. Gillespie's head snap back at some point.

21 A. Yes. Yes.

22 Q. And you concluded that that was consistent with him
23 being hit by one of the Metropolitan Police Department
24 officers?

25 A. It appeared to be a police officer; it could very well

1 have been another rioter. But it -- from what I -- from the
2 angle, his location, location of police officers, it looked
3 like the police officer is using defensive tactics to move
4 him away.

5 Q. You have reviewed this video a number of times, right?

6 A. Yes.

7 Q. So you also know that moments before a unit of
8 Metropolitan Police Department go in and stack form, one
9 after another, and walk right up to Mr. Gillespie?

10 A. Yes.

11 Q. Does that also inform your conclusion about whether it
12 was the Metropolitan Police Department whacking him on the
13 head?

14 A. That's certainly a piece of the puzzle.

15 MR. WATKINS: That's all I have, Your Honor.

16 THE COURT: Any redirect?

17 MS. SCHESNOL: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. SCHESNOL:

20 Q. With regard to some of these Safeway documents you saw,
21 Exhibit 504, the invoice, do you recall that?

22 We talked about the email and the invoice.

23 A. Yes. Yes.

24 Q. So the invoice shows that items were ordered, correct?

25 A. That's my understanding, yes.

1 Q. With regard to social media posts, or lack thereof, you
2 were asked questions about the defendant's posts on
3 Facebook, I believe, on cross; is that correct?

4 A. That's correct.

5 Q. Was the defendant an avid poster on Facebook?

6 A. Not at all, no.

7 Q. You were asked questions with regard to searching for
8 tactical gear, weapons, and things like that.

9 Do you recall that?

10 A. Yes.

11 Q. And what -- under what circumstances would law
12 enforcement search for tactical gear or weapons in an
13 individual's home?

14 A. If we had evidence from, say, videos or photos in a case
15 like this of an individual wearing body armor, helmets, knee
16 pads, shoulder pads, elbow pads, we would have asked for
17 that in the search warrant.

18 Q. In this case, did the FBI ask for -- ask in the search
19 warrant to search for things like tactical gear?

20 A. No.

21 Q. And in regards to -- basically, you were asked questions
22 about what might have been searched for in other people's
23 homes.

24 In all of the videos you have watched, which we
25 have established is extensive, how -- what's your best

1 estimate as to the percentage of people in the mob wearing
2 tactical gear?

3 MR. WATKINS: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: My best estimate would be probably
6 in the vicinity of about 10 percent, 1 in 10.

7 BY MS. SCHESNOL:

8 Q. You were asked if your interviews with law enforcement
9 formed your opinion about the videos you have watched and
10 testified to.

11 Do you remember that question?

12 A. Yes.

13 Q. Did any interviews change your mind or did you come to
14 opinions based on your observations of these videos?

15 A. I came to opinions based on my observations. If
16 anything, video and audio are what they are; they can't
17 communicate other than what they are. Human beings --

18 Q. You have eyes, you have ears, you have watched and
19 listened to the videos?

20 A. Yes. But people character and color and dimension to
21 it, so those are parts of the puzzle that -- or parts of the
22 pieces of the puzzle that led me to my conclusions about the
23 evidence, and who was in the video and who was doing things
24 in the videos.

25 Q. In the trial we have heard from the office -- a couple

1 of the officers in those videos?

2 A. Yes.

3 MS. SCHESNOL: May I have one moment, Your Honor?

4 THE COURT: Yes.

5 MS. SCHESNOL: No more redirect. Thank you.

6 THE COURT: Agent Adams, you are excused.

7 Does the government have any other witnesses?

8 MS. SCHESNOL: No, Your Honor. The government
9 rests.

10 THE COURT: All right.

11 MR. WATKINS: There will be a motion.

12 THE COURT: Okay. At this time, ladies and
13 gentlemen, why don't we just talk on the walkie-talkie.

14 (A bench conference was held as follows:)

15 THE COURT: And do you have a motion?

16 MS. O'NEILL-GREENBERG: Yes, we do. We would move
17 for judgment of acquittal on all eight charges as the
18 government has provided insufficient evidence to establish
19 proof of each element for Counts 1 through 8 to sustain a
20 conviction on each of the eight charges.

21 For example, for Count 2 our position is that the
22 civil disorder connection to commerce is too attenuated.

23 For Counts 1, 3, 4, 5, 6, 7, our argument is that
24 the evidence is insufficient as to the knowledge and intent
25 requirements for each of those charges.

1 And for Count 8, which is the obstruction of an
2 official proceeding or the attempt for aiding and abetting,
3 we would argue that the evidence is insufficient to
4 establish that Mr. Gillespie acted with intent -- the
5 specific intent to obstruct an official proceeding.

6 THE COURT: Okay. Are you done?

7 MS. O'NEILL-GREENBERG: Yes.

8 THE COURT: Okay. And does the government want to
9 respond?

10 MS. SCESNOL: Your Honor, the government believes
11 there is sufficient evidence before the jury that they can
12 reach a verdict, and we'd ask that you deny the defense's
13 motion.

14 THE COURT: All right. When a motion is made
15 under Federal Rule of Criminal Procedure 29(a), the Court
16 must enter a judgment of acquittal of any offense for which
17 the evidence is insufficient to sustain a conviction. In
18 considering this motion, the Court should not assess witness
19 credibility, weigh evidence or draw inferences of fact.

20 The applicable standard is whether the evidence
21 viewed in the light most favorable to the government is
22 sufficient for any rational trier of fact to find the
23 essential elements of the crime beyond a reasonable doubt,
24 see *Jackson v. Virginia*, 443 U.S. 307, jump cite 319, 1979.
25 See also *U.S. v. Wahl*, 290 F.3d 370, jump cite 375,

1 D.C. Circuit 2002.

2 Based upon the evidence that has been submitted in
3 the government's case-in-chief viewed in the light most
4 favorable to the government, a rational jury could find
5 guilt beyond a reasonable doubt on every single one of the
6 counts charged in this indictment.

7 As to the specifics of the challenge to Count 1 on
8 the jurisdictional element, even if the government has not
9 shown that the civil disorder obstructed, delayed, or
10 adversely affected commerce, it can also establish proof of
11 guilt on this count by showing that the disorder obstructed,
12 delayed, or adversely affected the conduct of a federally
13 protected function. And the function of holding a
14 constitutionally, statutorily mandated official proceeding,
15 a Joint Session of Congress, would probably constitute that.

16 But in any event, viewed in the light most
17 favorably to the government, the evidence submitted by -- in
18 relation to Safeway's disruption of operations would be
19 sufficient to establish a jurisdictional element.

20 And as to the other point raised specifically
21 about the sufficiency of the evidence regarding 1512(c)(2),
22 obstruction of an official proceeding, the videotape
23 standing alone with the defendant's sole comments on that
24 videotape are sufficient to establish guilt beyond a
25 reasonable doubt on that charge.

1 A. Vincent Gillespie, G-I-L-L-E-S-P-I-E.

2 Q. Mr. Gillespie, did you travel down to Washington, D.C.
3 on January 6th to disrupt Congress in the certification of
4 the Electoral College results?

5 A. No.

6 Q. Did you travel down to Washington, D.C. with the intent
7 to harm or injure law enforcement officers?

8 A. No.

9 Q. You travel down to Washington, D.C. to enter the Capitol
10 by whatever means necessary?

11 A. No.

12 Q. Mr. Gillespie, how old are you?

13 A. Sixty-one.

14 Q. Where do you live?

15 A. Athol, Massachusetts.

16 Q. Could you describe Athol for the jury a little bit?
17 What kind of city or town is that?

18 A. I guess maybe you'd say suburban. It's not too big a
19 town. I think I heard it has 40,000 people.

20 Q. How long have you lived in Athol?

21 A. Nine to ten years.

22 Q. Are you married?

23 A. I am not married.

24 Q. Have you ever been married?

25 A. No.

1 Q. Do you have children?

2 A. No.

3 Q. Do you live presently with anybody in Athol?

4 A. No, I don't. Nobody.

5 Q. Did you at one time have a roommate in Athol?

6 A. Yes.

7 Q. How long did you have a roommate for?

8 A. I would guesstimate -- there were two roommates; I would
9 guesstimate two to three years.

10 Q. Other than that, you live alone?

11 A. Yes.

12 Q. Mr. Gillespie, how far did you go in school?

13 A. Bachelor's degree in college.

14 Q. So you graduated high school?

15 A. Yes.

16 Q. Once you graduated high school, did you go to college
17 right away?

18 A. Yes. Oh, right away? No. Well, I did one semester not
19 too long after high school; but there ended up being a
20 significant break thereafter before I continued it, my
21 college career.

22 Q. What did you study at first?

23 A. I believe my declared major was engineering. Yeah, it
24 was.

25 Q. Did you take some time off after that first semester?

1 A. I did.

2 Q. How much time did you take off before you went back to
3 school?

4 A. Well, there were occasional semesters here and there,
5 literally; but until I really buckled down and -- and tried
6 to get my degree, that would be, like, between '79 and '86,
7 however many years that is. What is that? Seems like --
8 what is 86 minus 79? It was seven years or so; if not,
9 seven years.

10 Q. How old were you when you got your bachelor's degree?

11 A. I believe 29.

12 Q. And what was the bachelor's degree in?

13 A. Mechanical engineering.

14 Q. Once you graduated, what kind of job did you start
15 doing?

16 A. I worked as a mechanical -- junior mechanical engineer.

17 Q. How long did you work as a mechanical engineer?

18 A. Just shy of two years.

19 Q. Did you leave the field at that time?

20 A. I did.

21 Q. Why did you leave a field that you studied for?

22 A. I was completely immersed in the job, and I think I did
23 a good job. I think they were pleased with me, but I just
24 felt that my -- my heart wasn't in it. And so I just set it
25 aside for the time being, and it ended up being

1 indefinitely.

2 Q. What are some of the other jobs you have worked at over
3 your lifetime?

4 A. I have worked a fair amount in restaurants -- waiter,
5 busboy; this kind of stuff. I have worked a little bit in
6 construction, here and there; a little bit of just
7 miscellaneous temp work of various types.

8 Q. Are you employed now?

9 A. No, I am not.

10 Q. How long have you been not employed for?

11 A. Oh, 20 to twenty -- maybe about 25 years.

12 Q. What do you do for income?

13 A. Well, I have several inheritances that I got, and I live
14 off them. And also -- I am very frugal. I spend very
15 little money, so I am able to make this money last.

16 Q. Given that you are not working, what kind of things do
17 you do with your time?

18 A. There's a number of projects that I have been involved
19 with of various types. I -- I am writing a book right now
20 on the culmination of the evolution of human spirituality
21 based on prophecy. I haven't been working on it for several
22 months, but I plan to finish it.

23 Let's see. I put up a website called
24 alternativecures.net that has alternative, natural, and --
25 and inexpensive cures for various diseases. My sister died

1 in 2015, I put up a memorial website with her; lots of
2 pictures of her and my family, and a lot of other stuff on
3 the website.

4 My -- my aunt died -- this is more recently -- and
5 I am the executor of the estate. And there is quite a -- a
6 fair amount of energy -- that's taken time and energy; I am
7 dealing with a very dysfunctional family. And I -- we are
8 in the process of selling her house and giving the money to
9 beneficiaries.

10 Let's see. In Massachusetts, if you want to
11 appeal a parking ticket to a court, you don't go to -- you
12 don't go to -- you don't go to district court; you have to
13 file, by law, in the superior court and pay a nonrefundable
14 filing fee of \$275. So when I saw that, I filed a lawsuit
15 against that to -- to address that. The ACLU took up the
16 case. It went to Massachusetts Supreme Court, but they
17 ruled against me. But they said it was the responsibility
18 of the legislature, in essence. And so, for several years,
19 I was working with the ACLU to try to get a bill passed in
20 the state legislature to get the law changed.

21 Q. Let me interrupt you there.

22 A. Yeah. Yeah.

23 Q. Was that some time ago, that you worked on the parking
24 ticket case?

25 A. Yeah. That was at least a decade ago.

1 Q. And was that a full-time job for you when you were
2 litigating that?

3 A. It took a fair amount of time. But I did have an
4 attorney with the ACLU, so it wasn't as all-consuming as
5 some of my other projects.

6 Q. Do you also do other kinds of litigation to do things in
7 the legal field?

8 A. Yes.

9 Q. Let me ask you first, though, are you trained as an
10 attorney?

11 A. No.

12 Q. You didn't go to law school?

13 A. No.

14 Q. So why do you do litigation by yourself?

15 A. Well, there -- there can -- there seem to be times where
16 I need to litigate to -- as a matter of principle, usually.
17 And I don't want to pay, you know, \$30,000 a pop, so --
18 although, I have had an attorney for one -- one of my cases.

19 Q. We're going to talk about some of your other litigation
20 in a moment. I want to go back to asking about your living
21 situation.

22 A. Yes.

23 Q. At your home in Athol, do you own a functioning
24 television?

25 A. No.

1 Q. Do you have internet access in Athol?

2 A. I -- I do now, yes.

3 Q. For the majority of your ten years living there, have
4 you had internet access?

5 A. No. No, no.

6 Q. When did you get internet access in Athol?

7 A. At most, I think, about three months ago -- at the most;
8 maybe less.

9 Q. Let me be specific.

10 In 2020, leading up to 2021, you didn't have
11 internet access?

12 A. Not at the house, no.

13 Q. Do you presently have a cell phone?

14 A. No.

15 Q. How do you get calls?

16 A. Well, I do have a landline. I do have a landline.

17 Q. Have you had smartphones in the past?

18 A. Yes.

19 Q. Why did you give them up?

20 A. I -- I find it -- it's -- it's my belief that it's
21 actually -- they're actually spiritually harmful, and -- and
22 you can also see some of the negative effects. It just --
23 I, for a variety of reasons, just felt it was harmful to me.
24 I think there's energy -- I just -- I just don't -- I was
25 uncomfortable with it, and I don't like what it does to my

1 mind.

2 Q. The same question about television and internet access
3 at your home, why not?

4 A. Well, television would be similar. Well -- okay. For
5 television and internet -- both of them, they just -- you
6 end up spending -- I end up spending all -- it's like I am a
7 teleholic. I would end up spending all day -- too much time
8 watching TV and too much time on the internet, and I don't
9 get anything done. So that's why I chose to not have them
10 at my home.

11 Q. Okay. So with no television or internet, how do you get
12 news about the outside world?

13 A. Well, I -- I would -- I would go to -- do you -- do you
14 mean when I didn't have internet at home?

15 Q. Yes.

16 A. Okay. I would go to -- to cafes that had Wi-Fi. And so
17 I would go online like that, with my laptop, and I would go
18 to various websites -- usually alternative websites. I
19 wouldn't go to, like, CBS News; I would go to places with an
20 alternative perspective.

21 Q. Do you also have email relationships with people?

22 A. Email, yes. Yes, I do email.

23 Q. And you talked about litigation. Do you do your legal
24 research at the -- were you doing your legal research at the
25 cafes?

1 A. Much of it, yes.

2 Q. We heard that you have a Facebook account. Do you post
3 to Facebook?

4 A. Very, very little. And, right now, I don't think I can
5 even get on there.

6 Q. What about other social media sides, Twitter, Truth
7 Social, Discord, any of those kinds of sites?

8 A. Very little. Very little. I mean, not none, but very,
9 very little.

10 Q. I want to talk about the -- well, first, are you
11 registered to vote?

12 A. No, I am not.

13 Q. When is the last time you were registered to vote?

14 A. I think I haven't -- well, I -- I might be forgetting
15 something, but I think it -- it hasn't been since --
16 since when -- when George Bush, Jr. ran for office. I --
17 so I tried unsuccessfully to register because I was just
18 moving from California to here. So it was the one -- the
19 presidential election before that. I might have -- I might
20 be forgetting something. There might have been one time
21 after that that I registered. But -- anyway, but the last
22 time I definitely remember was that one.

23 Q. And why don't you -- why aren't you registered to vote?

24 A. I think it bothers me that the federal government is
25 involved in the elections. You need to get a federal ID. A

1 driver's license has -- requires a Social Security number.
2 I don't believe that the federal government should be
3 involved. It should be the state's business to run those
4 elections; that's my opinion.

5 Q. Notwithstanding the fact that you don't vote, are you
6 interested in election issues?

7 A. Yes.

8 Q. And particularly in election fraud?

9 A. Yes.

10 Q. When did you become interested in election fraud?

11 A. I -- I know that in the 2012 presidential election that
12 I was already at that time interested, and I was involved.

13 Q. And since then, up to 2021 and to now, are you still
14 interested in election fraud?

15 A. Yes. Yes. Yeah.

16 Q. I want to move now to 2020 and the election on
17 November 3rd of 2020. You learned that President Biden had
18 been declared the winner of the November 3rd election?

19 A. Yes.

20 Q. Was that that night, or sometime later that you
21 learned --

22 A. You mean election night?

23 Q. Yes.

24 A. Well, I don't -- I don't think -- I think it was at
25 least a few days later, I think.

1 Q. What was your reaction when you learned that?

2 A. Surprise, and -- and doubt that that -- doubt about the
3 legitimacy of that.

4 Q. Why was it surprising to you?

5 A. Well, Trump was way ahead on election night; he was
6 clearly going to win. And then, all of a sudden, they
7 stopped the counting for the first time history and then,
8 all of a sudden, they said Biden won. It just sounded very
9 suspicious to me, and -- and other reasons.

10 Q. Once you came to that conclusion, did you start doing
11 research about the election?

12 A. I did. I did.

13 Q. Describe some of the research you did after November 3,
14 2020.

15 A. A lot of what I did was listening to -- it was watching
16 videos online of a variety of types. There were interviews
17 with lawyers involved, like Sidney Powell, Rudy Giuliani,
18 Trump himself; and they're talking about -- they were
19 talking in detail about the election fraud, about what
20 happened.

21 I was also watching videos of county workers in
22 various states who had observed all kinds of stuff; like
23 people taking boxes of votes from under a table, and then
24 they are suddenly counting them -- all of these votes being
25 delivered in the middle of the night with a car. There's

1 video -- some video of that. I have seen computer experts
2 talking about how -- how it was -- it was all rigged; that
3 the -- the elections, as they have been purported to be,
4 can't be valid, and many other similar things.

5 Q. So as a result of that research that you were doing,
6 what did you conclude?

7 A. I concluded the election was stolen.

8 Q. Did you take any action about it at the time?

9 A. The only action, when I finally came -- no. I -- the
10 only action was -- at a certain point, I just kind of turned
11 off, and I stopped -- maybe the -- I stopped doing research
12 at a certain point because I just said: I got it. I got
13 it. All right, it's stolen.

14 Q. Did the election results, nevertheless, weigh in your
15 mind?

16 A. Yes.

17 Q. Now, you heard Officer Gazelle testify today about the
18 12th Amendment. Do you recall that?

19 A. Yeah. He was that last police officer, yeah.

20 Q. And some of the statutes that are involved with the
21 certification process -- do you remember that testimony
22 today?

23 A. I do. I wasn't paying that close attention, but I do
24 remember.

25 Q. In November -- in December of 2020, were you aware of

1 the 12th Amendment and the specifics of how the Electoral
2 College operates?

3 A. No.

4 Q. Did you know that electors were to be chosen by each
5 state? You knew that, right?

6 A. Yeah. I didn't think about it; but if I had been asked,
7 I would have probably said I know that.

8 Q. Were you aware that the results had to be sent to the
9 president of the Senate?

10 A. No. No.

11 Q. And that Congress ultimately would have to certify the
12 result?

13 A. No. I mean, I would have guessed that some process had
14 to happen, but I -- I was not aware of that.

15 Q. In December of 2020, going into January of 2021, did you
16 pay attention to what was going on in that Electoral College
17 at all?

18 A. I'm sorry. My mind was spacing out. Say it again,
19 please.

20 Q. In December of 2020 on into January 2021, were you
21 paying attention to controversies about the Electoral
22 College?

23 A. No.

24 Q. What were you focusing on in December and into January?

25 A. I had a -- a number of projects going. I was -- I was

1 writing my book every day. Well, to the best of my
2 recollection it was every day; what I mentioned earlier,
3 about the culmination of spiritual evolution of humanity. I --

4 Q. Were there a couple of litigation projects --

5 A. Yes. Yes.

6 Q. -- that you were also involved with?

7 A. Yes. Yes.

8 Q. Describe those for us.

9 A. Okay. Yeah. One was a lawsuit relating to YouTube,
10 which I was trying to get involved in. I had -- I had been
11 scammed trying to -- in -- relating to cryptocurrency.

12 It's -- it's actually -- I don't know how much
13 detail you want to go into, but it's -- it's -- I got
14 scammed -- and many people got scammed by the scam. And you
15 couldn't find the actual culprits because they live in the
16 Ukraine, or something, and it's very hard to tell who did it
17 with cryptocurrency. And so YouTube was involved because
18 they were promoting these videos with this scam, and they
19 were profiting from it. So a number of lawsuits were
20 initiated against YouTube by -- by other people who had been
21 hurt by this scam. And I was trying to join some of those
22 lawsuits, and I was talking to the attorneys and trying to
23 do that.

24 And it -- two guys were kind of with me; they were
25 hoping that I would help them also join. And, also, I was

1 trying to initiate a lawsuit myself relating to YouTube; so
2 that's -- that's that.

3 And then there was -- also, the biggest project
4 that I have been working on --

5 Q. Let me just ask a question --

6 A. Sure.

7 Q. -- so we can continue on with the jury.

8 A. I'm sorry.

9 Q. I think you were also going to talk about -- was there
10 another large legal project that you were doing?

11 A. Yes. Yes.

12 Q. And what did that involve?

13 THE COURT: Before you leave the cryptocurrency,
14 let me ask you --

15 THE DEFENDANT: Yes.

16 THE COURT: -- Mr. Gillespie --

17 THE DEFENDANT: Yes.

18 THE COURT: -- you say you were "scammed," does
19 that mean you lost money on cryptocurrency?

20 THE DEFENDANT: Yes.

21 THE COURT: How much money did you lose?

22 THE DEFENDANT: About 13,000.

23 THE COURT: Okay. Proceed.

24 BY MR. WATKINS:

25 Q. So moving on to litigation, was it involving your

1 family?

2 A. Yes.

3 Q. And describe briefly the litigation, and how long it's
4 been going on.

5 A. It's been going on for 20 years; it's a series of
6 lawsuits.

7 Let's see. My father was an artist; he died in
8 2000. His second wife and widow thoroughly manipulated him
9 regarding the will. He had -- he had a very unusual
10 personality. He was very vulnerable in some ways, he was
11 insecure. And she took advantage of him, and she
12 manipulated him regarding the will. My sister and I got
13 largely cut out of the will, so that's part of it.

14 But the other part of it is that my father, he was
15 just obsessively -- he was just utterly obsessed about -- it
16 was his religion, like, his art. And what probably is his
17 most heartfelt desire was to have his paintings in museums
18 so people could see them.

19 Q. Let me interrupt you, Mr. Gillespie. Did your father
20 have some success and renowned as a painter?

21 A. Yes, he did. He did.

22 Q. And do his paintings hang in museums?

23 A. Yes. Yes, they do.

24 Q. Continue on about your efforts to litigate and what was
25 going on in the end of December of 2020.

1 A. Okay. I will just -- I will just -- yes. And so part
2 of the -- and Peggy -- that's the name of the widow, the
3 second wife -- she was just selling off the paintings
4 without trying to put them in museums. She knew full well
5 that he wanted those paintings in museums, so that's part of
6 the reason for the litigation as well; I wanted to protect
7 my father's legacy. So that's -- that's the litigation in a
8 nutshell.

9 And, I'm sorry, what was the second thing?

10 Q. Let's move forward to December. It sounds like --

11 A. Oh, yeah, what was going on. Yeah.

12 Q. -- with the litigation over your father's case, in
13 addition to the crypto -- was the litigation on your
14 father's case heating up at that point?

15 A. Yes, yes, yes. In -- on December 7th, I filed a -- I
16 believe it was an amended opposition to motion to dismiss; I
17 believe that's what it was. That -- that was a major
18 undertaking for me. That got filed on December 7th. Then,
19 on --

20 Q. Mr. Gillespie, just to be clear, you are doing these
21 things yourself?

22 A. Yes. Yes, yeah.

23 Q. And was this something in state court or federal court?
24 Where were you filing these things?

25 A. That would have been federal court, federal -- federal

1 district court.

2 Q. Continue on to what was happening in December.

3 A. There was an opportunity to use the Board of
4 Bar Overseers to -- I thought there was -- to file a kind of
5 parallel litigation to have them help me, basically. They
6 could have gone against some of the defendants in -- and I
7 tried to do that. And so there was a letter I got from them
8 on, I believe, December 14th. And the response -- I need
9 to -- needed to respond with certain -- a certain type of
10 letter by January 2nd. And so that took a lot of work, and
11 I was working on that for that -- for that time period.

12 Q. That was during the holiday period leading up to the
13 beginning of January 2021?

14 A. Yes.

15 Q. What other things were you involved with in December of
16 2020? Does that cover it mostly?

17 A. The YouTube lawsuit, the -- the lawsuit relating to my
18 father's estate, the -- the book that I am writing. And
19 they're -- there are always so many things I am working on
20 that I am sure there were other -- there were a number of
21 other things going on.

22 Q. You mentioned a deadline of January 2nd --

23 A. Yes.

24 Q. -- 2021. Did you meet that deadline?

25 A. I did.

1 Q. Did you immediately move on to one of your other
2 projects?

3 A. No. When I get a project like that done it's, like,
4 usually -- especially -- well, it -- it may be more than one
5 thing. But in these -- this litigation -- this litigation
6 relating to my father's estate, I need to take, like, a day
7 or two just to cool out, just to rest my mind up. And so
8 there was a little bit of a break there. And then I might
9 have taken a couple days break after that.

10 Q. When and how did you first hear that there was going to
11 be a rally in Washington, D.C. on January 6th?

12 A. I have a friend named Brian -- what?

13 Okay. I have a friend named Brian, and he -- he
14 lives in the New York area. And he called me -- could have
15 emailed me, but I think he called me on -- just, like, two
16 or three days before the rally. And he said, you know,
17 there is this Trump rally; you want to go? We -- we could
18 carpool together.

19 Q. What did you understand the purpose of the rally from
20 Brian?

21 A. It was a Trump -- it -- we could go and -- go to the
22 Trump rally, show our support for Trump, and that -- that
23 was the only nominal purpose.

24 Q. Did you learn at some point that it was called the "Stop
25 the Steal" rally?

1 A. I was aware that some people called it the "Stop the
2 Steal" rally, yes.

3 Q. Did you know why it was called "Stop the Steal"?

4 A. Yeah. Because the -- because -- because the election
5 was getting stolen from Donald Trump, and people were still
6 trying to do what they could to oppose that.

7 Q. Did you know that the rally coincided with Congress
8 meeting to certify the Electoral College results?

9 A. I didn't.

10 Q. You didn't discuss that with Brian?

11 A. No.

12 Q. Did you decide right away that you were going to go down
13 to Washington, D.C. on January 6th?

14 A. No. I initially told Brian no. I said I wouldn't be
15 able to go. I just felt I was too busy, and it -- it was
16 just a lower priority.

17 Q. What ultimately changed your mind and convinced you to
18 go?

19 A. Well, I realized there, in the next day or so, that
20 actually I had kind of a gap in my schedule. You know, I
21 had just filed this -- this letter with the Board of Bar
22 Overseers. And I was worried about the election. I was
23 worried about this stolen election. I felt it was very
24 harmful for the country, and I did want to show some support
25 for Trump. And so, I mean, I think that was the -- maybe

1 the single motive was to just show some support for Donald
2 Trump.

3 Q. Why do you think he needed support?

4 A. Because he was under siege.

5 Q. You talked with Brian about coming down to Washington,
6 D.C. to attend the rally. What did you expect you were
7 going to do when you came down?

8 A. I just thought it would be, like -- it would be fun; it
9 would be like a nice vacation and, plus, I would be with
10 friends. I would be with Brian, who I like. And as it
11 turned out, a couple other people went with us.

12 I thought it would be enjoyable. It was nice to
13 go to Washington, D.C.; it's a nice-looking city. I thought
14 maybe we would, you know, go to some restaurants, and -- and
15 it's enjoyable to go to a Trump rally. I have been to Trump
16 rallies before. I just thought it would be a nice
17 outing and a break from what I was doing.

18 Q. Had you ever been to Washington, D.C. before?

19 A. I had, but a very long time ago.

20 Q. Was that when you were an adult or a teenager?

21 A. Teenager at the oldest, yeah.

22 Q. And so -- in the many years since then, you have not
23 been to Washington, D.C.?

24 A. That's correct.

25 Q. As you discussed the plans with Brian, how long did the

1 two of you intend to stay in Washington, D.C. for?

2 A. Well, we were both a couple of cheapskates, so we
3 decided that the plan would be to arrive on the morning of
4 January 6th and depart on the evening of January 6th; so
5 that was the plan. No hotel at all.

6 Q. And how were you going to get down to the rally?

7 A. Well, eventually the plan formed after a couple of
8 conversations. The plan formulated that I would go down
9 with my roommate, his name is Peter, and we would meet Brian
10 in Yonkers, New York. And then we would get into Brian's
11 car, and he would meet -- there was a lady friend who I had
12 met that -- who would also come with us, and then we would
13 drive down in Brian's car.

14 Q. Before you left Athol, were you trying to convince
15 other -- you went with your roommate, right?

16 Aside from your roommate -- did you and your
17 roommate try to convince others to go down to the rally?

18 A. No.

19 Q. Did you post information online that you were going down
20 to the rally?

21 A. No.

22 Q. Encourage people to protest for Donald Trump?

23 A. No. No.

24 THE COURT: Excuse me one second. Excuse me.

25 So had you gone to other Trump rallies with Brian

1 or your roommate?

2 THE DEFENDANT: No. Not with them, no.

3 THE COURT: Okay. How many other rallies had you
4 gone to?

5 THE DEFENDANT: At least three. At least three.

6 THE COURT: Did you have to travel for those as
7 well?

8 THE DEFENDANT: Yeah. But they were, like, in New
9 Hampshire, so it's -- the states are very small up there.
10 And it was just like -- well, maybe at least -- it could
11 have been a couple hours' drive, one to two hours.

12 THE COURT: Okay.

13 BY MR. WATKINS:

14 Q. Just to be clear, how many years is that over the span,
15 that you had been to three Trump rallies?

16 A. I think they were all in the 2016 election, I think.

17 Q. So in the 2020 cycle, were you going to Trump rallies
18 then?

19 A. No. No.

20 Q. So this would be the first during the 2021 time frame?

21 A. Yes. Yes, yes.

22 Q. As you planned for -- what time did you plan to leave
23 Athol in your car with Peter?

24 A. Well, I am not sure what we planned. I can tell you
25 when we did leave, approximately. Approximately.

1 Q. When did you leave?

2 A. It must have been, like, about 8:00 p.m. the night of
3 the 5th.

4 Q. Before going down to the rally -- and as you're planning
5 for it -- did you think about buying and bringing tactical
6 gear?

7 A. No.

8 Q. Gas masks?

9 A. No.

10 Q. Goggles or helmets?

11 A. No.

12 Q. Did you have some kind of Trump paraphernalia? Flags?
13 MAGA hats? Anything like that?

14 A. No. No.

15 Q. Had you bought any kind of that merchandise?

16 A. No.

17 Q. Bear spray --

18 A. No.

19 Q. -- or other weapons?

20 A. No.

21 Q. As you were getting in the car on the night of
22 January 5th, did you anticipate that you would be
23 confronting police --

24 A. No.

25 Q. -- to go down there, intending to block Congress from

1 certifying the Electoral count?

2 A. No.

3 Q. Did you think you were going to be trying to stop
4 Congress from doing work?

5 A. No.

6 Q. So did you leave Athol for Yonkers, New York?

7 A. Yes.

8 Q. And about what time do you think you got to Brian's in
9 Yonkers?

10 A. I think it was about midnight, I think. I think.

11 Q. When you say late at night, it might have been even
12 early morning?

13 A. What I said was "midnight."

14 Q. Oh, I'm sorry.

15 A. Yeah.

16 Q. Yes. And did you -- what happened next? Did you stay
17 at Brian's, or did you immediately go somewhere else?

18 A. We did stay there for a little while, one to two hours.
19 Just kind of -- we just stayed in his apartment for a little
20 while.

21 Q. And did you, indeed, pick up someone else on the way?

22 A. Yes.

23 Q. What was her name?

24 A. Kat -- Katherine.

25 Q. And did she go by "Kathy"?

1 A. I am not sure. Maybe she did go by Kathy. I am not
2 sure.

3 Q. And then what time do you think you left the New York
4 City area?

5 A. Yeah. She was in Manhattan.

6 I would guess between 2 and 3 -- oh, well, 2:30
7 and 3 is what I would guess, somewhere around there.

8 Q. Now, when did you arrive in the Washington area?

9 A. Dawn. So I -- what time? I -- I am not sure; but,
10 like, 7 or 8 a.m., something like that. I'm -- I think.
11 Something like that.

12 Q. Did you drive all the way -- first, was this in your car
13 or in someone else's car?

14 A. It was Brian's car.

15 Q. Did you drive right into downtown Washington, D.C.?

16 A. No. No.

17 Q. Where did you go?

18 A. We went to a -- a Metro station.

19 Q. What happened when you were at the Metro station?

20 A. Well, we parked the car in -- in the garage there, and
21 some guy immediately wanted to become friends with us, so he
22 just joined us. And then Brian wanted to hook up with other
23 friends that he -- he knew, and so -- and they were late.

24 There were -- there was communication issues between

25 him and -- it just took a while between him and them. But,

1 anyway, we eventually -- they eventually came.

2 Q. And did you buy a Metro card in order to go down to
3 Downtown Washington, D.C.?

4 A. Yeah.

5 Q. And we saw, in the evidence, the receipt. Why did you
6 keep the receipt for the Metro card?

7 A. I keep records of everything. I keep -- I have files on
8 everything.

9 I am an independent FBI agent -- that's a joke.
10 That's just a joke. Never mind.

11 Q. Do you remember the Metro station that you got on?

12 A. No. I don't know which one.

13 Q. And do you know where you got off the Metro in
14 Washington, D.C.?

15 A. I don't know which stop it was, no.

16 Q. Once you got off, how did you know where to go for the
17 rally?

18 A. Well, I didn't. I -- and I think most of us didn't; we
19 were just kind of wandering. But one of us had some -- as I
20 recall, one of us had -- knew sort of where to go, and we
21 were kind of following his lead.

22 Q. And so did it take you a while to get to the rally?

23 A. Yeah. Yeah. I'd say -- do you want a time?

24 Q. Sorry? Yeah. How long did it take you to walk to the
25 rally?

1 A. I would say minimum 15 minutes, I would say, I would
2 estimate.

3 Q. Describe the scene when you arrived at the rally.

4 A. Suddenly, as we got close to the area where the rally
5 was, there were so many people, just so many people. It was
6 so packed that it was sort of hard to even walk forward. It
7 was just lots and lots of people.

8 Q. Where did you actually end up standing to try to watch
9 the rally?

10 A. In the general vicinity of the Washington Monument; so
11 not right at it, somewhere near it, in front of it.

12 Q. And so the stage was closer to the White House?

13 A. Yeah. Just quite far away, yeah.

14 Q. Were you able to see, with a naked eye, the stage up
15 there?

16 A. Yes.

17 Q. And when you arrived there were there people already
18 speaking, or not?

19 A. I don't think so.

20 Q. Do you know for sure?

21 A. I just -- I guess I can't say for 100 percent. I can't
22 be 100 percent certain, no.

23 Q. How long, altogether, do you think you stayed at the
24 rally from when you arrived there until when you ultimately
25 left?

1 A. It -- when -- when we left for good?

2 Q. For good.

3 A. I -- I am just going to give a guess. I am just going
4 to say an hour and a half, maybe. An hour, an hour and a
5 half; I would guess something like that.

6 Q. I don't want you to guess.

7 A. Well, I don't know exactly. I would -- I mean, if I had
8 to put a number, I would say maybe an hour and a half.

9 Q. Now, did you stay right by the Washington Monument area
10 or, at some point, did you have to leave to go somewhere
11 else?

12 A. We left -- I left. Shall I describe?

13 Q. Yes. Why did you leave the Washington Monument area
14 temporarily?

15 A. Well, the girl that was with us -- the young woman,
16 Kathy, Katherine -- she had to use the bathroom. And there
17 were no porta potties anywhere -- well, no, I shouldn't say
18 that. There were no porta potties for the great majority of
19 the audience. They -- they had some right near the stage.

20 Q. I will stop you there and show you Government's
21 Exhibit 607.

22 A. Okay.

23 Q. That person that is standing to your left --

24 MR. WATKINS: This has been admitted. And may it
25 be published.

1 THE COURT: It may be published.

2 (Whereupon, the exhibit was published.)

3 BY MR. WATKINS:

4 Q. The woman that we see to your left, in the right of the
5 picture, is that Kathy?

6 A. Yes, it is.

7 Q. So you are starting to talk about porta potties. And
8 tell us a little bit more about what interrupted while you
9 were there at the monument.

10 A. She had to go -- she had to use the bathroom. And, you
11 know, I don't always think you need to be a, you know, man
12 and take care of a woman; but in this case I -- there were
13 just so many people -- and she was just quite young -- I
14 felt it was appropriate. And I offered to go with her to go
15 find a bathroom.

16 Q. Did it turn out to be a little bit of an adventure to
17 find and get her to a bathroom?

18 A. Yeah. A little -- yeah.

19 Q. Tell us what happened. How did you do that?

20 A. Well, first of all, we didn't even know for sure where
21 there was one. Somebody said there might be one at the
22 Ronald Reagan Building, and so I went with her there. And
23 it just -- it just takes a while to work through the people.
24 And then -- and then there was a long line to get in. She
25 had to wait to get in; and then, eventually, she got done,

1 and I took her back.

2 And then, when we got back, there was a whole
3 issue of trying to find Brian and the other guys; and it was
4 very difficult. There were just so many people, and the
5 cell phones weren't working. So it was a real ordeal to
6 find them again.

7 Q. Now, in that picture we just showed, you have a cell
8 phone. Was that your cell phone that you were using to take
9 a picture?

10 A. If I remember the picture correctly, I -- I think it is,
11 I think. Yeah. That must have been my cell phone, yes.

12 Q. And were you using that to try to get a hold of your
13 friends?

14 A. When we got back, yes.

15 Q. And that was difficult?

16 A. Yes.

17 Q. Did you meet up with them?

18 A. Eventually, yes.

19 Q. At that point, could you hear speeches going on?

20 A. Yes.

21 Q. Now, could you actually see very well from where you
22 were at the Washington Monument across the -- well, describe
23 what you saw in front of you up to the stage.

24 A. Okay. There is an area just in front of the Washington
25 Monument where there were just many, many, many, many

1 people, and we were among them. We couldn't -- it's hard to
2 even move through them. But then, ahead of that, there was
3 a cordoned-off area; it was like a lawn with -- nobody was
4 allowed to be there, and it was enormous. And I am just
5 going to -- I am just going to, like -- I don't know how big
6 it was; but I am just going to say, like, 20 acres or
7 something. It's this huge area.

8 And then there was another area with more people,
9 but those are close to the stage, and then there was the
10 stage. But it was quite a distance there between us and
11 that front area where the other people and the stage was.

12 Q. Now, once the speeches did start, were you able to hear
13 the speeches?

14 A. No. Well, you could hear that someone was speaking; and
15 if you strained you could hear a few words, but that's all.

16 Q. And were there stacks of speakers close by to where you
17 were?

18 A. There was an enormous array of speakers, I mean, like,
19 40 feet high by 50 or -- I am just guesstimating -- 60 or
20 70 feet across, kind of in front of the Washington Monument.
21 And it was off; it was not working at all.

22 Q. Did you develop some kind -- did you talk or develop
23 some kind of theory about why those speakers were off?

24 A. In my opinion, somebody was sabotaging Trump. That's my
25 opinion.

1 Q. Could you hear President Trump -- former President Trump
2 speak at that time?

3 A. Yeah. You could just barely hear that he was speaking,
4 and you could hear some of the words.

5 Q. Could you make out very much of his speech?

6 A. Not really.

7 Q. Was there a point in time where you heard either another
8 speech or him talk about walking down to the Capitol?

9 A. No. Not in any speech, no.

10 Q. Did you, nevertheless, begin walking down Constitution
11 Avenue?

12 Well, do you know where Constitution Avenue is?

13 A. Not from -- I mean, I know how to get to this
14 courthouse, but not up there. Not over there.

15 Q. Did there come a point where you were walking towards
16 the Capitol or you understood you were walking towards the
17 Capitol?

18 A. Yes.

19 Q. And who was with you when you started walking down to
20 the Capitol?

21 A. That would have been me and Brian and -- and Katherine
22 and Peter -- and this other guy who had attached himself to
23 us.

24 Q. So these are the five of you in the core that had gotten
25 on the Metro to come down?

1 A. Well, at the time we were in the Metro there was more of
2 us. At -- at this point, it was the five of us.

3 Q. Okay. And was there discussion about why you were
4 walking down to the Capitol?

5 A. Well, very -- very little. The only discussion -- well,
6 not -- not -- well, I mean, I don't know. We might have
7 said a word or two. But the only thing -- the only
8 communication that I remember is that I had asked -- well, I
9 have to explain a little bit to answer that.

10 Q. Can you please explain.

11 A. Okay. There were -- during the -- the speech, there
12 started to be just streams and streams of just thousands and
13 thousands of people leaving and going in a certain
14 direction. And I have been to Trump rallies, people don't
15 leave the speeches. So it's a -- the -- the reason is
16 nobody could hear, and it was bitter cold. And so -- and I
17 asked somebody: Where are you going? They said -- I think
18 they said: Trump said we're supposed to go down to the
19 Capitol Building.

20 And so -- and -- so I did know that much.

21 Q. But you did not hear that directly?

22 A. No, I didn't.

23 Q. And did you hear why Trump was saying: We have to go
24 down to the Capitol?

25 A. No. No.

1 Q. Now, you talked about it being cold out there. Were you
2 dressed for the weather?

3 A. I don't remember, but I was cold. I was cold.

4 Q. Did you immediately walk all the way down to the
5 Capitol, or did you have to do something else?

6 A. We -- we had to do something else.

7 Q. What was that?

8 A. A number of -- of us had to use the bathroom. And so
9 the Ronald Reagan Building is on the way, when you start to
10 go that way, and we stopped there.

11 Q. And was that a quick stop or an extended stop?

12 A. It ended up being really extended. I mean, like, it
13 was -- I am going to guesstimate -- like 45 minutes. And
14 Brian -- well, there are reasons for that. I mean, it was a
15 long line just to get in; and then I believe Peter and Kathy
16 were taking forever in there. And Brian, I remember, got
17 really upset with them for taking so long.

18 Q. And was there also food involved?

19 A. I don't know. You know, they might have been getting
20 food in there. There might have been food in the Ronald
21 Reagan Building. I am not sure. I mean, they might have
22 gotten some in there, but I am not sure.

23 Q. And once the bathroom issues were accomplished, did you
24 start walking with other protesters?

25 A. Yes.

1 Q. I am showing you what's already been admitted as
2 Exhibit 608.

3 THE COURT: It may be published.

4 MR. WATKINS: May it be published?

5 THE COURT: Yes. Give it one second. It's
6 coming. There you go.

7 (Whereupon, an exhibit was published.)

8 BY MR. WATKINS:

9 Q. So I am showing you a picture. Do you have any idea
10 when this picture was taken?

11 A. Well, it was either when I was escorting Kathy to the
12 bathroom or when we were all walking down to -- to the
13 Capitol Building, one or the other.

14 Q. Do you recognize any of the landmarks in this picture?

15 A. Oh, I can see the Washington Monument.

16 And just from other discussion in this -- in this
17 trial, I can note that that's apparently the
18 African-American building, or something.

19 Q. So what were you thinking at this point, as you were
20 walking down to the Capitol, about what's going to happen
21 when you get down to the Capitol?

22 A. I was just -- I didn't have much of a notion, I just
23 thought it was -- it would be nice to see the Capitol
24 Building. I would be just -- and I was just going along
25 with what the crowd was doing, what everybody was doing.

1 And I -- it was also just pleasant to walk down and -- and
2 enjoy -- enjoy looking at the city, and...

3 Q. As you walked down toward the Capitol, were you talking
4 with other people that were also walking?

5 A. I am sure -- I am sure we were talking amongst me and
6 Brian and -- and Peter and Kathy.

7 Q. On the walk down to the Capitol, did you receive some
8 kind of text on your phone?

9 A. I -- I did. I did.

10 Q. What was the text?

11 A. It was a message that there was going to be a curfew at
12 6:00 p.m., and that everybody was supposed to leave the
13 area -- the Washington, D.C. area -- by 6:00 p.m.

14 Q. And what was the significance of that to you? What were
15 you going to do as a result of receiving that text?

16 A. I -- I did -- I did -- I don't know if "take it to
17 heart" is the right word; but just -- I did take it
18 seriously, and I did plan to get out of there. I -- I
19 thought maybe people would start to get arrested after that,
20 or something, so I planned to be out of there by 6.

21 Q. And did you talk with the other people in your party
22 about getting out by 6:00 p.m.?

23 A. I don't remember doing so, but I probably did.

24 Q. Do you remember how long it took to walk the mile or so
25 from the Ronald Reagan Building down to the Capitol?

1 A. I don't. I mean, I could give kind of a guesstimate. I
2 mean, just -- I would say --

3 Q. We don't want you to guess.

4 A. I --

5 Q. Were you walking at a fast pace or a slow pace --

6 A. No. Just -- just a natural pace.

7 Q. When you arrived and first saw the Capitol, what did you
8 see?

9 A. As we got near the Capitol, I just saw so many people.
10 It just -- the -- the density of people became much, much
11 more. And so there were just so many people that it started
12 to become hard to move again, to move forward. And they
13 were also all over the Capitol Building.

14 Q. And did you continue to walk towards the Capitol?

15 A. Yes.

16 Q. Did you stop at some point?

17 A. Yes.

18 Q. And why did you stop?

19 A. Because there were so many people, I wasn't -- we
20 weren't sure what to do initially. I mean, it -- to -- you
21 have to keep, like, weaving in between everybody if you want
22 to continue.

23 Q. As you were arriving at the Capitol, did you see a
24 pretend gallows?

25 A. No.

1 Q. Did you hear people talk about doing harm to the Vice
2 President or legislators?

3 A. No.

4 Q. Did you see violent skirmishes going on?

5 A. No.

6 Q. Tell us what you were feeling as you got closer to the
7 Capitol.

8 A. Well, you know, it was -- it's very nice to be with --
9 with -- even though we were all worried about the election,
10 the -- the election being stolen, just this illegal
11 process -- it was also very pleasant to be with all of
12 these -- it's like everybody -- we're all like-minded. It
13 was like a -- there was a sense of unity among -- among us
14 all, among all these people; and that was really all nice.

15 And it was also -- I mean, it's just -- the whole
16 thing was like a vacation for me, so it's -- it was just
17 pleasant. I didn't have so much stress as I so often do at
18 home, and so -- and it was nice just being in that area and
19 looking at the Capitol Building. It was just pleasant.

20 Q. Did you as a group decide that you were going to go onto
21 the Capitol grounds?

22 A. We -- we decided -- what we decided was --

23 Q. Let me stop you there.

24 When I talk about "the Capitol grounds," did you
25 know what the Capitol grounds were at that point?

1 A. No. No.

2 Q. You have heard us talk about the Peace Circle and some
3 of those things. Did you know that that's what that was
4 called on that day?

5 A. No. No.

6 Q. I think you told us you hadn't been to Washington
7 D.C. -- so you hadn't been to the Capitol in many, many,
8 many years?

9 A. That's right. Well, I don't know if I had ever been to
10 the Capitol Building.

11 Q. Did you know anything about the layout of the Capitol
12 grounds?

13 A. No. No.

14 Q. So, as you proceeded forward, did you see any indication
15 that you weren't allowed to walk anywhere as you were
16 approaching the Capitol Building?

17 A. No.

18 Q. Did you see any signs of guards or police there?

19 A. No. The only police I saw were standing -- were far
20 away. They were standing way up on -- on the higher part of
21 the Capitol Building. But, other than that, I didn't see
22 any -- I didn't -- I didn't see any other police that I
23 remember.

24 Q. Did you have to step over any kind of fencing or
25 barriers that were in the way?

1 A. No. No.

2 Q. Were there other people also moving onto the Capitol
3 grounds?

4 A. I am sure other people were doing what we were doing.
5 There is -- I -- I -- shall I explain about what the --

6 Q. Explain.

7 A. When -- when it started to get really dense as -- with
8 the people, and we weren't sure about proceeding, I
9 suggested -- I said: Well, look, let's pick that landmark.
10 I picked -- I don't know what it was; it was some landmark
11 ahead. Let -- let's just make it a goal; let's all make it
12 a goal to get there. It was a challenge because there was
13 just so many people. And everybody was game for it;
14 everyone said: Okay. Okay, let's do that. And so we did.

15 And so we struggled forward together. And we did
16 this, like -- we did this, like, at least three times. And
17 then, finally, the last time was: Let's get up on that
18 scaffolding. And -- and each time it was, like, more and
19 more people. But the last time we actually went up on the
20 scaffolding, after making these objectives like that,
21 sequentially.

22 Q. So what was your intent by pointing out milestones and
23 getting closer to the Capitol?

24 A. It was just fun, exciting, enjoyable. I mean, we were
25 all -- we were just having a relaxed, nice time.

1 Q. Now, you have seen exhibits where you are identified as
2 being up on what we are calling the "scaffolding." Do you
3 recall those exhibits?

4 A. I recall at least one of them, yes.

5 Q. And do you recall being up on that scaffolding?

6 A. Yes. Yes. Yes.

7 Q. How long -- if you can remember, how long did it take
8 you to get up to the scaffolding? Was it a long time or a
9 short time?

10 A. Do you mean from when it first started getting dense
11 with people?

12 Q. Yes.

13 A. Oh, from there to -- to the top of the scaffolding?
14 That was a while. It would probably be, I would say, at
15 least -- at least 15 or 20 minutes, I would say.

16 THE COURT: So one of your goals was to make it to
17 the very top of the scaffolding?

18 THE DEFENDANT: Actually, yes. Yes. Yes.

19 BY MR. WATKINS:

20 Q. And did you get up to the top of the scaffolding?

21 A. We did. We did.

22 Q. And we saw a picture of you at the bottom of the
23 scaffolding, but was that before or after?

24 A. Oh, it could have been before. It might have -- it
25 would probably have been before, but I am not certain.

1 Q. Did you spend time on the scaffolding itself?

2 A. Yes. We stayed there for a little while.

3 Q. What were you feeling as you were there on the
4 scaffolding?

5 A. Again, it was just -- it's -- there was something very
6 pleasant about the atmosphere. Even though all of us -- all
7 of the protesters shared this worry over the state of the
8 country because of what had happened in the election, there
9 was also just a sense of unity. It was really -- there was
10 something very pleasant about that. It was like
11 everybody -- nobody was fighting with anybody, nobody was --
12 not just "fighting," but just nobody was arguing. It was
13 just -- it was just a pleasant environment.

14 And -- and just looking around, it was just
15 enjoyable. I mean, maybe it's partly because I am always
16 under so much stress at home; and here I could just relax
17 and take a vacation, you know.

18 Q. Were the other four people with you -- were they also on
19 the scaffolding?

20 A. Yes. We all went up, yes.

21 Q. At some point, did you decide you were going to go
22 somewhere else?

23 A. Yeah. Well, at a certain point, we had been there for a
24 while and then decided we were going to leave.

25 Q. When you say "leave," leave to go home or leave to go

1 somewhere else? Leave to go where?

2 A. I don't think we had a clear idea. We were just going
3 to go back, maybe back to the -- to the car or the Metro
4 station, I guess; but I don't know if we had that clear an
5 idea.

6 Q. So did you climb off the scaffolding in order to do
7 that?

8 A. Well, we -- well, we had to go down -- there were, like,
9 different levels. And we went down -- we started to go down
10 one or two levels.

11 Q. Before you left, was there something that you saw that
12 stopped you?

13 A. Yes.

14 Q. And what was that?

15 A. I think Brian pointed out to me that something was going
16 on at the tunnel entrance. I didn't know it was called "the
17 tunnel" at the time; but something was going on there, there
18 was some kind of commotion, and he pointed out to me. And
19 it -- I -- I found it -- I was interested, and -- and I
20 suggested that we make that a goal. We had made these other
21 goals -- and let's make it a goal to go over and see what's
22 going on there.

23 Q. That commotion at that point, did you know that that was
24 protesters battling with police?

25 A. I didn't. I did have a sense that it was protesters

1 doing something more than the rest of us were doing, but I
2 didn't really know what it was.

3 Q. And was that inviting to you, that protesters were doing
4 something more?

5 A. Pardon?

6 Q. Was that inviting to you? Was that interesting to you?

7 A. Interesting, yes.

8 Q. Did you know at that point that other protesters had
9 shattered doors leading into the tunnel?

10 A. No.

11 Q. How many yards was it -- or what was the distance
12 between where you gotten off the scaffolding up to what we
13 now know is the lower west terrace tunnel?

14 A. Well, in the past, I have estimated it to be about -- in
15 the past, I have estimated it to be about 75 yards. But I
16 looked at it more recently, it might be less than that.

17 Q. Was it all five of you that started to go up that way?

18 A. I am not certain. I think all five of us started to go,
19 I think so. But three of them, maybe three of them -- am I
20 saying it right? Yeah. Three of them dropped out pretty
21 soon, if all five of us went.

22 Q. Did you continue to move towards where the commotion
23 was?

24 A. Me and Brian did, yes.

25 Q. At some point did Brian drop off?

1 A. He -- he did. About -- I am going to guesstimate --
2 maybe 50 feet from the entrance, he stopped.

3 Q. Was the going pretty tough as you got closer to the
4 commotion?

5 A. Yes. Yes.

6 Q. Was it difficult to make your way through people?

7 A. Yes. Yes.

8 Q. But you did? You did keep going?

9 A. Yes.

10 Q. Why? What was it about it that made you want to keep
11 going?

12 A. Well, at a certain point, I was starting to get a sense
13 that these protesters were doing something more -- more of a
14 sense than from 75 yards away, but these protesters were
15 doing something -- something more.

16 And I did want to do something. I wanted to do
17 something because -- something more to -- because I felt
18 that there was a crisis in the country. I felt it's just so
19 important for the welfare of the country. You just can't
20 have, you know, elections being stolen like this, and so
21 some of these feelings were there.

22 Q. So you came down to attend a rally and support the
23 President and support the fight against election fraud, in
24 your mind. Here you are at the Capitol now trying to do
25 something more.

1 What did you think you were going to do?

2 A. Well, at -- at that moment, when I'm 50 -- 50 feet away,
3 I am not sure how clear things were. But, at some point,
4 between 50 feet away and maybe, like, 10 feet away, I did
5 get a sense that maybe -- that maybe we could get into the
6 building to protest. Me -- me and maybe some other
7 protesters can get into the building to protest.

8 Q. Explain why that was important all of a sudden as you
9 got closer to the building?

10 A. Okay. As I got to, like, you know, 20 feet or 10 feet
11 away, it suddenly -- like, the -- the gravity of the whole
12 thing started to weigh on me. I said: Whoa, I am really
13 going to do something. I am really going to get involved.

14 And with that, there were other thoughts that also
15 came in mind. Part of what was going on is I was thinking
16 it's like, you know, the government has been unable to deal
17 with this; the politicians have been arguing over this; the
18 media has been -- the courts haven't been able to deal --
19 there was some -- at the time, I believe, 60 lawsuits -- at
20 the time that's what I believed. I -- I now know it's more
21 than that. But -- and not one of them had been allowed to
22 come to trial. Not one of them had been properly
23 adjudicated, as I understood it.

24 And it's just like all of these -- all of the
25 official bodies that are supposed to be able to deal with

1 this haven't been able to deal with it. And so I felt like
2 it was just falling on us -- some of the citizens -- to take
3 a stand. And -- and with that there is the sense of
4 responsibility, this -- this sense of responsibility and --
5 and -- and importance.

6 And there is another -- but also --

7 Q. Go ahead.

8 A. There -- there is -- also, another thought that I had
9 there was that this is -- this is the only chance we were
10 going to have. I was going to be gone at 6:00 p.m. I -- my
11 ride left that night. I wasn't going to -- all of these
12 other people were going to be gone, too. It's like, we
13 had -- if we were going to do something -- if I was going to
14 do something together with the other protesters, we had to
15 do it right now, basically.

16 And so for all of -- all of -- I feel like this is
17 giving feedback or something -- anyway, for all of these
18 reasons it felt very important, and -- and -- and there was
19 this great sense of responsibility.

20 Q. Had you ever participated in a contentious protest like
21 this involving the police?

22 A. No.

23 Q. Have you participated in any protest since January 6th?

24 A. Since January 6th?

25 Q. Yes.

1 A. No.

2 Q. Before January 6th?

3 A. Well, when I was a boy, I know that my father took me to
4 at least a couple of Vietnam War protests. And one of those
5 was in Washington, D.C., actually, but that's -- that was,
6 like -- I was a little boy.

7 Q. So with this sense of obligation and responsibility,
8 what was it you were thinking you were going to do when you
9 got up to the commotion?

10 A. Well, the only plan -- the -- I mean, the idea was maybe
11 we could just get into the building and just protest; that's
12 it. It would be, like, making a statement, if we could be
13 inside the Capitol Building and just protest there. I -- I
14 thought that it would be doing something. Maybe the media
15 would write about it; maybe people would start to ask
16 questions and say: Maybe we should look at this election
17 fraud issue, you know. It was just -- but there wasn't much
18 more of a plan than that.

19 Q. Mr. Gillespie, did you have any idea that Congress had
20 been meeting inside the Capitol that day?

21 A. No.

22 Q. Did you have any idea that they had been meeting in the
23 Capitol that day to certify the election results?

24 A. No. No.

25 Q. Did you talk with anybody about Congress being in there

1 certifying the results?

2 A. No. No. No.

3 Q. Did you hear people talking about getting Nancy Pelosi
4 or Mike Pence?

5 A. Getting them? Getting them?

6 Q. Yes.

7 A. No. No. I had heard somebody -- there was one woman
8 yelling earlier at the rally: Pence is a traitor, Pence is
9 a traitor -- but I didn't really know what she meant.

10 Q. So you made it to the lower west terrace tunnel?

11 A. Yes.

12 Q. What did you first see about what was going on in the
13 lower west terrace tunnel?

14 A. Well, I -- I saw a line of police officers partway into
15 the tunnel. There were a few other protesters in the -- in
16 the entrance; and then there was the shape of the tunnel,
17 which I had never seen before.

18 Q. We see on the video that you are carrying a riot shield
19 with other people. Do you recall that happening?

20 A. I don't recall carrying a riot shield -- riot shield
21 with other people. I have seen it on the video, but I don't
22 recall that.

23 Shall I describe the way I recall it or --
24 whatever.

25 Q. Well, first, by the time you got to that tunnel, had you

1 already been pepper sprayed?

2 A. Yes.

3 Q. Did that have any impact on your sense of obligation or
4 responsibility?

5 A. No. Not on a sense of obligation and responsibility.

6 Q. Did you know at that point it was police that were
7 spraying the pepper spray?

8 A. I am not sure. But when I got close to the tunnel, I
9 think I was aware that there were police in there, I think.

10 Q. So now tell us about the riot shield, as you remember
11 it.

12 A. The way I remember it is that -- just as I was getting
13 in it -- I know the video might look a little different.
14 But just as I was getting in, somebody handed me a riot
15 shield, and I took it. That's the way I remember it.

16 Q. So, when you arrived there, what did you think was
17 happening regarding the protesters and the police?

18 A. I -- when I first got there, there wasn't really
19 anything hap- -- there's -- in the immediate moments, I
20 don't think anything was happening, at least for a few
21 seconds. The police were just standing there, and I was
22 standing there, and other protesters were standing there.

23 Did I answer your question?

24 Q. Yes.

25 At some point, did you see someone else do

1 something?

2 A. Yes. Yes.

3 Q. What was that?

4 A. Another guy ran into the officers, and -- and he was
5 also kind of punching, which I don't -- that's -- that's
6 what he did.

7 Q. And what did that make you do?

8 A. He -- he was -- he was pushing himself into the
9 protesters [sic]; and I thought -- well, I didn't know what
10 to do. I mean, I had never been in a situation like this,
11 but I wanted to do something. I wanted to do -- I wanted to
12 do something, and I was trying to get in. So I thought if I
13 followed him and I pushed into the officers, then maybe it
14 would, you know, augment what I was doing. And so I -- I --
15 that's why I rushed into the officers.

16 Q. Mr. Gillespie, these were the police in there. Why were
17 you trying to push and charge the police?

18 A. I was hoping that we could get through the line. I was
19 hoping that we could push through the line.

20 Q. By pushing through the line were you intending to harm
21 one of the police officers?

22 A. No. Not at all.

23 Q. Did you think you were doing anything that would harm
24 them?

25 A. No. No.

1 Q. Were you intending in any way to cause them any injury?

2 A. No. No.

3 Q. Now, you see in the videos there are other protesters
4 that are throwing things and firing things, chemical spray.
5 Did you notice that while you were there?

6 A. I -- I noticed some of it, but it was such an intense
7 environment that I -- I didn't see a lot of it. It was
8 just -- I was in such an intense state, but I did see some
9 of it. I did see some things thrown.

10 Q. When you went into the police, was that effective for
11 getting into the Capitol?

12 A. No.

13 Q. What's the next thing you did?

14 A. Well, I said -- you know, pushing -- well, more than
15 pushing, rushing -- rushing, going forward didn't work; let
16 me try pulling. And it just -- it was really a spontaneous
17 thing. I mean, I thought of this, like, one second before I
18 did it. And I decided if pushing didn't work, let me try
19 pulling, and so I pulled on an officer.

20 The idea was to pull him away from the other
21 officers, and then maybe -- I thought maybe that the line
22 would break down or maybe somebody else would also do
23 something, and the line would break down a bit and we could
24 get through.

25 Q. Were you intending to pull him into the mob?

1 A. No, it was not.

2 Q. If somebody else had started helping you pull him and
3 were pulling him into the mob, would you have helped that?

4 A. No. No --

5 MS. SCHESNOL: Objection. Calls for speculation.

6 THE COURT: Sustained.

7 THE DEFENDANT: I can tell you --

8 BY MR. WATKINS:

9 Q. Were you going to participate in pulling an officer into
10 the mob?

11 A. Absolutely -- absolutely not. I -- I would have tried
12 to defend -- I would have tried to probably help the officer
13 if I saw him getting hurt, if he was -- if he was pulled
14 into the mob and getting hurt.

15 Q. When you pulled on the officer's arm that way, were you
16 intending to harm him?

17 A. No.

18 MR. WATKINS: This is Exhibit 702. Yes. This is
19 a still from Exhibit 702. It's already been admitted.

20 THE COURT: So which number is this?

21 MR. WATKINS: 702.6.

22 THE COURT: All right. That may be published.

23 (Whereupon, an exhibit was published.)

24 BY MR. WATKINS:

25 Q. And is that you pulling on that arm?

1 A. Yes.

2 Q. Did you pull for very long?

3 A. No.

4 Q. Why did you give up?

5 A. We haven't talked about this but, I mean, I -- I could
6 feel him getting very uncomfortable; and I didn't want to
7 pull beyond a certain point with that, and -- and it wasn't
8 working. I just didn't want to really, really force it
9 beyond a certain point; and so I just stopped after a few
10 seconds.

11 Q. This video goes on to show --

12 THE COURT: Excuse me.

13 When you say you felt -- you said you could feel
14 the officer feeling "uncomfortable," do you mean scared?

15 THE DEFENDANT: Well, I guess I am not sure
16 exactly what it would be. But I could just feel that he
17 was -- I mean, when I say "uncomfortable," I don't mean just
18 slightly uncomfortable; I mean he was very uncomfortable.
19 And so I didn't want to -- I just felt I didn't want to push
20 it beyond that.

21 BY MR. WATKINS:

22 Q. A few moments after that, you are across from the
23 officers pointing at them calling them "traitors"?

24 A. Yes.

25 Q. And you were accusing them of treason?

1 A. Yes.

2 Q. Did you believe that those officers were traitors that
3 day?

4 A. No.

5 Q. Did you believe they were committing treason by being up
6 there in the lower west terrace tunnel?

7 A. No.

8 Q. Why did you say those things? Why did you yell those
9 things?

10 A. There were two things going on: One, the idea was to
11 kind of prick their consciences. I -- well, first of all, I
12 didn't -- I wasn't sure what to do. I mean, I had tried
13 pushing, rushing forward. I tried pulling, that didn't
14 work.

15 And so I thought -- when I heard somebody else
16 yell -- so, well, I could yell these things and maybe it
17 will prick their conscience. Maybe they'd say: You know
18 what, maybe they're right. Maybe -- maybe we shouldn't be
19 doing this. I mean, at the time, that's -- that's what
20 thoughts came to my mind.

21 But the other -- there is more than that. Also, I
22 knew that somebody had committed treason. Somebody had
23 comitted treason. Somebody was a traitor, whoever had
24 rigged the election; and I and the other protesters were
25 acting to oppose that. And if the officers were going to

1 stop us from doing that, then they -- what they were doing
2 is aligning themselves with treason, aligning themselves
3 with traitors; and so that's partly where that came from.

4 Q. Your mind that day, the fact that there were traitors
5 and treason -- people committing treason -- did that give
6 you the right to enter the Capitol by any means necessary?

7 A. No.

8 Q. What did you hope the police were going to do by you
9 shouting at them?

10 A. What I hoped was just that they might say -- that they
11 might be on our side, that they might -- they might say, you
12 know, maybe we should let them in. Maybe -- maybe we should
13 let them through. I mean, at this point, I don't think that
14 would have worked, but at the time that's -- that's what
15 came to my mind.

16 Q. Later on, you become part of a scrum that moves into the
17 lower west terrace tunnel. Can you describe what you're
18 experiencing, both physically and mentally?

19 A. Well, the -- the crowd started pushing behind me. A lot
20 of people starting pushing. And I was -- I was also pushing
21 a bit at that point. I was also pushing.

22 And the pressure became so much, eventually, there
23 was so many people behind us -- and the police were pushing
24 this way (indicating) and -- and the people behind me were
25 pushing this way (indicating), I was just utterly squished,

1 and I -- at a certain point -- and I couldn't even move.

2 And it got to a point where I was actually having difficulty
3 breathing, that's how much pressure was on me.

4 Q. While you were in the scrum moving forward, was there
5 something you noticed about one of the police officers that
6 was there?

7 A. Yes.

8 Q. And what was that?

9 A. One of the officers was off slightly to the side,
10 slightly away from the other officers, like, maybe two feet
11 away, or something like that; and he was not doing what the
12 other officers were doing.

13 All of the other officers obviously were working
14 together, they obviously had a common purpose. And this
15 officer -- well, first of all, I don't know for sure that it
16 was a guy. He had this big headgear on, and I -- I couldn't
17 see his face. So I -- I am going to call him a "he," but it
18 might have been a woman; he was a small officer. But he was
19 just off to the side, like -- and he was just standing
20 there, like, hunched over, like -- I am trying to show you
21 (indicating) -- like kind of like this (indicating). And he
22 looked like he was injured, is what it looked like to me.

23 And --

24 Q. What did you do when you saw that officer like that?

25 A. Well, I just -- just reflexively I said: Well, somebody

1 is hurt, and so I will try to help him; and so I did try to
2 help him.

3 Q. What did you do to try to help that officer?

4 A. I -- I went and I called out to the main body of
5 officers, and I said: Make way for your own guy. And I
6 said -- as I recall, I said something to the effect that:
7 You've got a guy who's hurt here; one of your guys is hurt.
8 I said it again: Make way for your own guy. I said it, I
9 think, twice; it could have been three times. But the
10 second time -- I believe it was the second time -- they
11 actually listened to me. And they -- they formed -- there
12 was this kind of crease that formed in -- in the body of
13 officers. And then I -- to the best of my recollection, I
14 gave some kind of signal to this officer and said: Go
15 ahead, you can go; and he listened, and he went through.
16 And he went back through the officers.

17 Q. Did you try to follow him through that crease?

18 A. No.

19 Q. After that event, did you continue to be pushed and push
20 into the lower west terrace tunnel?

21 A. See, I am not sure exactly when that happened because,
22 at a certain point, I stopped pushing. So I -- I don't know
23 if that was before or after I started pushing.

24 Q. I want to ask you about that. Is there a point at which
25 you stopped your own pushing?

1 A. Yes. Yes.

2 Q. And what made you stop your own pushing?

3 A. Okay. I had already been whacked in the head with a
4 baton, the police -- hard, with a police baton at this
5 point, and then they sprayed us with pepper spray; and I had
6 been sprayed earlier.

7 I knew nothing about pepper spray before this day.
8 What I learned -- one thing I learned is that there are
9 total degrees of how much you can be pepper sprayed. And I
10 suddenly -- they -- they pepper sprayed me -- and I think
11 others as well -- very hard. So my eyes were now really
12 burning, and I could barely keep them open. And -- I mean,
13 it was just alarming.

14 And, plus, I had been whacked in the head, as I
15 said. And it just suddenly -- there was a question of
16 whether or not I should continue trying to get into the
17 building under these extraordinary circumstances. I mean, I
18 have never been in a situation like this before.

19 I felt it was within my capability to continue. I
20 felt despite this pain, despite this total unknown
21 situation, despite having been whacked in the head, I
22 could -- it was within my capability to keep on -- keep on
23 going, but I wasn't sure if I should. And so I felt I
24 needed to kind of take stock of the situation. And so --

25 Q. When you took stock of the situation, what did you?

1 A. Just -- just evaluated it, look at it.

2 Q. When you reevaluated it, what was going through your
3 mind?

4 A. One of the things I thought of during that time was,
5 Well, how committed am -- well, let me back up.

6 The key issue -- the most important issue was the
7 election fraud. I don't care whether it's the Democrats or
8 Republicans; nobody should be stealing an election and then
9 having -- having that, you know, swept under the carpet,
10 which is what -- what was going on -- is what I believed was
11 going on.

12 But, nonetheless, even though that's the main
13 issue, I was also -- so I also started thinking: Well, how
14 committed -- how committed am I to Donald Trump? How sold
15 am I on Donald Trump? And as part of that thinking, I -- I
16 remembered that -- how he had been pushing the "vaccine"
17 really hard at the end of his term, and that really put me
18 off. That really, really put me off. And, with that, I
19 said: Well, I am not so committed to Donald Trump, you
20 know, nothing like much less than I used to be.

21 And then, back to the larger question was: Should
22 I keep going? Should I keep trying to push forward? And
23 the answer that came to me was: I don't know. That was the
24 answer: I don't know. And because that was my answer, I
25 said: Well, then I am not going to push anymore. And so,

1 from that point forward, I stopped all my efforts to get
2 into the building.

3 Q. We saw that you were beginning to be pushed back out to
4 the mouth of the tunnel.

5 A. Yes.

6 Q. So were you actively pushing or actively opposing the
7 police at that point?

8 A. No. After that point that I made that decision, I no
9 longer pushed.

10 Q. I am showing you what --

11 MR. WATKINS: This is Exhibit 403, which has
12 already been admitted.

13 THE COURT: Yes. It may be published.

14 MR. WATKINS: I am going to fast forward this.

15 (Whereupon, a video was published.)

16 BY MR. WATKINS:

17 Q. Mr. Gillespie, can you tell us what's going on at this
18 point in the video?

19 A. Oh, yes. Yes. At this point in time --

20 Q. Let me interrupt you. So are you being pushed out of
21 the tunnel at this point?

22 A. Gradually, yes. Yes.

23 Q. I am going to play a little bit of this --

24 A. Okay. Go ahead.

25 Q. -- and then I want you to tell us what is going on.

1 A. Go ahead.

2 (Whereupon, a video was published.)

3 BY MR. WATKINS:

4 Q. And while that video is going on, can you tell us what
5 you are doing?

6 A. Yes. And look -- I was trying to draw attention to my
7 hand. If you play it again, you can look at my hand
8 gesture. But what I am -- right then I am in a civil
9 discussion. When I say "civil," I mean nonhostile
10 discussion with a -- with a police officer. I am talking to
11 him -- and a little bit to another one. And it's a two-way
12 discussion; the officer was also trying to talk back to me.
13 We were not yelling at each other. We were not -- it was --
14 it was a civil discussion. He was -- I couldn't hear what
15 he was saying, but he could hear what I was saying because
16 of his big gas mask. But we were talking back and forth.

17 Q. And can you remember the gist of the conversation?

18 A. Well, I -- I can't remember all of it, but I can
19 remember some of it. I -- I know that one of the things I
20 said to him was: We're doing this for the good of the
21 country.

22 Q. Were you actively resisting or trying to punch officers
23 at that point?

24 A. No.

25 Q. Were you trying to grab onto officers at that point?

1 A. No.

2 Q. At any point, were you -- once you finished with
3 Sergeant Riley, did you try to grab police officers?

4 A. No.

5 MR. WATKINS: I am going to fast forward here to
6 another part of Exhibit 403.

7 MS. SCHESNOL: Just so the record is clear, can I
8 ask what time -- just what time we're looking at?

9 MR. WATKINS: Yes. The time stamp is -- I am
10 going to back it up again to 4:21, and let's go to 45
11 seconds.

12 MS. SCHESNOL: Thank you.

13 THE COURT: And we have been sitting here for
14 about two hours. And I hate to interrupt a cross [sic], so
15 I am going to leave it to you, Mr. Watkins, to let me know
16 whether you want to finish this aspect of your cross and
17 then take a break, or is this a good time for a break?

18 MR. WATKINS: Maybe just three or four minutes
19 with this part.

20 THE COURT: Okay.

21 (Whereupon, a video was published.)

22 BY MR. WATKINS:

23 Q. So did you see what just happened there?

24 A. Actually, I saw it out the corner of my eye, but I
25 wasn't looking; but I think I know what -- where we are.

1 Q. Do you want me to show it to you again?

2 Let me show it to you again, starting from the
3 same place.

4 (Whereupon, a video was published.)

5 THE DEFENDANT: Yes.

6 BY MR. WATKINS:

7 Q. What just happened there?

8 A. An officer sharply, hard, elbowed -- elbowed me in the
9 head.

10 Q. And did you feel physical pain at that point?

11 A. Yeah. Well, I don't remember clearly, but I am sure it
12 was painful. I -- I didn't like it.

13 Q. But do you recall it independently of the video, being
14 hit while you were in the tunnel?

15 A. I remember being hit several times. I don't know if I
16 have a specific clear memory of this particular one.

17 MR. WATKINS: Move to 4:23:22 on the time stamp.
18 I am starting it.

19 (Whereupon, a video was published.)

20 BY MR. WATKINS:

21 Q. We see your head snap back there?

22 A. Yes.

23 Q. What happened there?

24 A. Three officers came out fairly quickly from the back of
25 the officers to the front. The -- the one -- the officer in

1 the front came directly to me and immediately hit me hard in
2 the head.

3 Q. Do you know which side of your head he hit you on?

4 A. I believe it was the left side.

5 MR. WATKINS: Continuing on.

6 (Whereupon, a video was published.)

7 BY MR. WATKINS:

8 Q. And did that blow knock your hat off?

9 A. I -- I am not sure.

10 (Whereupon, a video was published.)

11 Q. And what happened there?

12 A. I -- I was, again, whacked in the head hard -- hard --
13 with a police baton.

14 Q. On each of those occasions when you were hit by the
15 police, did you make any kind of action to them to
16 retaliate?

17 A. No, the -- no. No. I did reach up slowly. You can see
18 in the video it's slowly to -- just because they were
19 raising their baton; and I didn't want to get hit again.
20 But I was -- there was no retaliation.

21 Q. And were you at that point trying to oppose getting out
22 of the tunnel?

23 A. No.

24 MR. WATKINS: This is a good place to stop, Your
25 Honor.

1 THE COURT: All right. Ladies and gentlemen,
2 we'll take a ten-minute break.

3 (The jury was excused, and a recess was taken.)

4 THE COURT: Mr. Gillespie, please resume the
5 stand.

6 Mr. Watkins, are you ready to bring the jury in?

7 MR. WATKINS: I'm sorry?

8 THE COURT: Are you ready to bring the jury in?

9 MR. WATKINS: Oh, yes. Absolutely.

10 (Whereupon, the jury returns to the courtroom.)

11 THE COURT: Please continue.

12 MR. WATKINS: Thank you.

13 BY MR. WATKINS:

14 Q. Mr. Gillespie, when we ended just now, you were being
15 pushed out of the mouth of the tunnel.

16 A. Yes.

17 Q. Was it difficult to actually get out the final way out
18 of the tunnel?

19 A. Yes, it was difficult.

20 Q. What did you have to do?

21 A. Well, first, I had to wait until I got pushed to -- to
22 that outer -- far enough out -- outer area. We -- I was
23 still just packed in with so many people. But when -- even
24 there, even when I finally got -- well, actually -- to the
25 best of my recollection, we were actually already outside

1 the mouth of the tunnel; I was still packed in.

2 And what I ended up having to do is climb up and
3 literally roll over the other people -- just roll my body
4 over the other people. And I think I had to make more
5 than -- I had to make more than one effort, and I finally
6 did it.

7 Q. Once you cleared the tunnel, what did you do next?

8 A. Well, I started to -- I started just -- as I -- to the
9 best of my recollection, just slowly walking away. But I
10 was so drained at this point, both mentally and -- and
11 physically, I mean, I was just -- I don't know if "drained"
12 is the right word, but just -- just spent, or something like
13 that; I just wanted to just lie down. And that's actually
14 what I did, right there, and I was still fairly close; I
15 just laid down on the ground.

16 Q. How long did you lay down on the ground for?

17 A. Well, not very long because I -- just, like, a minute or
18 two because it felt uncomfortable because I was in
19 everybody's way. There were all these people around, so I
20 got up and I continued to walk away.

21 Q. As you continued to walk away, what was going on around
22 you?

23 A. Well, one thing that happened is that all of these
24 people were coming up -- up to me and -- and praising me.
25 They were saying things like: Thank you for your service to

1 the country and things like that, various statements that --
2 like, four or five -- I would estimate at least four, maybe
3 more, people that were saying things like that to me. Also,
4 people were offering me water because -- for -- for my eyes.
5 And I believed it helped. The -- one of the prior witnesses
6 says it didn't help; but I believed it helped a little bit,
7 so I would put it in my eyes.

8 Q. What did you -- you have told the jury that you'd
9 actually stopped getting in there. What did you feel
10 getting all these congratulations from people?

11 A. I -- I was struggling with trying to figure out what the
12 heck had happened. You know? Had -- did a good thing
13 happen? Did I do a good thing? Did I do a bad thing? I --
14 I really didn't even know what to make of it all.

15 But these people were kind of, like, you know,
16 boosting my -- I don't know, boosting my ego, whatever you
17 want to call it; and they made me think maybe I did a good
18 thing.

19 Q. What other kinds of emotions were you feeling as you
20 were leaving the tunnel?

21 A. Okay. Well, one of the emotions -- there was the strong
22 sense of indignation.

23 Q. Why indignation?

24 A. I had gotten whacked on the head three times -- it was
25 actually more than three times, but there was three times at

1 the end. It really seemed to me -- it felt -- immediately
2 felt uncalled for and unnecessary. And -- and it just, it
3 didn't seem right.

4 And, I mean, I'm -- who wants to get whacked in
5 the head? These are hard hits. Who wants that? And there
6 was a sense of indignation for me personally, but also just
7 for the way -- what I was doing was treated -- what me and
8 the other protesters, we had a good cause. We were trying
9 to do something positive. We were trying to help the
10 country, and so there was a sense of indignation that came
11 in.

12 There was also this sense that I mentioned just a
13 minute ago, just not being able to just place what
14 happened -- not being able to get my mind around what
15 happened. Was this a good thing? Was it bad? I just -- I
16 didn't know if -- I just didn't even know what to make of
17 it. And --

18 Q. Did you hear people talking around you and saying
19 things?

20 A. Yes.

21 Another thing that happened right in that time --
22 this is all right at -- at around the time I was leaving the
23 tunnel or shortly before, shortly after -- I heard other
24 people yelling things. So other people had feelings like
25 mine, too. And they were saying things like -- I don't

1 remember exactly what they said, but things along the lines
2 of, you know, "Take it over." "Own it for a few days."
3 Or "take" -- "this is our place"; "let's take it over."
4 Things like that. I don't remember exactly, but they were
5 things along those lines.

6 And -- and plus my mind was very amped up from
7 what had happened -- and racing. And because I was
8 trying to -- because of all of this, my mind -- because I
9 didn't know what to make of it. And because of the
10 indignation, I think my mind latched on to some of those
11 notions, those -- those things that people were saying,
12 like, you know, "Take it over"; "Own it for a few days." So
13 that -- my mind just latched on to those.

14 Q. I want to move now on to the interview by the AP that
15 we've seen.

16 Do you actually have a good recollection of that
17 interview?

18 A. Parts of it I don't remember at all.

19 I do remember some -- some parts of it; but other
20 parts I -- I have no recollection. So I -- I don't even
21 remember some of the parts.

22 Q. When you are watching it now, what do you think about
23 the things that you said on that video?

24 A. Well, some of them make sense to me, but some of it --
25 some of the statements seem -- I -- it just -- I don't know

1 what the right word is; they are alien. It's just like I
2 don't recognize myself saying that. I just don't -- some of
3 those things, I just -- I am surprised to see a video of me
4 saying it.

5 Q. For example, in the video you talk about if you just had
6 some more people you would have been able to overpower the
7 police.

8 Why are you saying that, when what you have told
9 the jury is that you gave up at some point?

10 A. Well, that's -- well, I had given up, I had definitely
11 given up. But that was talking in the past tense, and that
12 was just saying: Yes, we -- we might have -- if there had
13 been more people, I might have gotten in.

14 Q. And what about taking it over for two or three days, was
15 that something that you had intended to do when you went
16 into the lower west terrace tunnel?

17 A. No. No. Absolutely not.

18 Q. Do you recall saying those things in that video?

19 A. No. I actually don't. I don't.

20 Q. Why do you -- why are you saying them in that video?

21 A. My -- as far as I can tell, it's the sequence of things
22 I described earlier. There was that -- that indignation at
23 getting hit like that and the indignation at the way I had
24 been treated, and the way we had all been treated -- the way
25 me and the other protesters -- what -- that's not what I'm

1 trying to say. I'm trying to say the way our effort -- the
2 way the effort -- I was trying to do something good, and it
3 was just so unceremonious.

4 And then with me not being -- not knowing what to
5 make of this situation, and then me latching onto these
6 things that these other people said as a way of trying to
7 psychologically resolve it, I think -- that's my best sense
8 about why I said those things. I -- I don't think that
9 the -- I don't think I was even thinking. I don't think
10 there was even room to even think; my mind was racing so
11 much. But all of -- all of the things said together, I
12 think, describes why I said that.

13 Q. After that interview, were you able to meet up with
14 Brian and the rest of your friends?

15 A. Yes.

16 Q. And what did you do, generally, once you met up with
17 your friends?

18 A. Well, they continued to try to help me with my eyes and
19 my head; I was bleeding. And so we stopped for a little
20 while; they were giving me water, and I think they were
21 doing something with my head. But shortly thereafter we --
22 we ended up leaving.

23 Q. And when you say "leaving," how did you get back home?

24 A. We...

25 Q. Did you get on a Metro train?

1 A. Yeah. I'm -- yeah. I'm pretty sure we got on a Metro
2 train.

3 Q. You say you're sure. Do you remember getting on a Metro
4 train to get home?

5 A. They maybe -- I -- I don't remember that well, but that
6 has to be what we did because -- because the car was in --
7 in the Metro station, so we must have gotten on the Metro.

8 Q. And do you recall driving home from there?

9 A. Yes.

10 Q. And did you drive back to Massachusetts from Yonkers,
11 New York?

12 A. Yes.

13 Q. Mr. Gillespie, did you have any idea that you weren't
14 supposed to be in the area of the Capitol on January 6?

15 A. I did not.

16 Q. Did you know that Congress was meant to certify the
17 Electoral College results on that day?

18 MS. SCHESNOL: Objection. Asked and answered.

19 THE COURT: Overruled.

20 THE DEFENDANT: No, I did not know.

21 BY MR. WATKINS:

22 Q. Did you intend to hurt, harm, cause bodily injury to
23 anyone?

24 A. No, absolutely not.

25 MR. WATKINS: That's all I have, Your Honor.

1 THE COURT: All right. Cross.

2 MS. SCHESNOL: May I proceed, Your Honor?

3 THE COURT: Yes. Please do.

4 MS. SCHESNOL: Thank you.

5 CROSS-EXAMINATION

6 BY MS. SCHESNOL:

7 Q. Good afternoon, Mr. Gillespie.

8 A. Good afternoon.

9 Q. I want to make sure I understand a few sort of basic
10 things first.

11 A. Yes.

12 Q. You have a bachelor's degree from college, right?

13 A. Yes.

14 Q. And what school did you get that bachelor's degree from?

15 A. San Francisco State University.

16 Q. And is that actually in San Francisco?

17 A. Yes, it is.

18 Q. Okay. You know how sometimes schools have a name of a
19 city but they are not actually in the city? So that was in
20 San Francisco, California.

21 And what years did you attend?

22 A. Well, more than once. But, in the end, I went from '86
23 to 1990. I also took a couple of semesters much earlier on;
24 I think that was '82.

25 Q. And you said your degree is in mechanical engineering;

1 is that right?

2 A. Yes.

3 Q. In addition to obtaining the degree in mechanical
4 engineering, what other kind of general coursework did you
5 take in college?

6 A. Well, you can't take much besides engineering when you
7 are studying engineering, unless you don't graduate many --
8 it takes a lot of years to graduate; but, sure, I took
9 various electives. I remember taking an independent study
10 in Hunter Thompson, which I enjoyed very much.

11 Q. In? What was that?

12 A. Hunter Thompson, he is -- he is a writer. He's -- he
13 writes about being whacked out on drugs and doing serious
14 things at the same time. It's funny, and interesting.

15 What else did I do? I -- I took chorus -- chorus
16 several times; I enjoyed that. I remember taking a -- a
17 course in -- I am going back to times when I was kind of
18 just drifting through college, as well as the later time. I
19 took a course in architectural drawing.

20 Q. Were there any, like, basic math, science, English,
21 history -- those kind of just sort of basic courses that are
22 necessary to get a degree?

23 A. Well, for engineering you need more than basic math.

24 What was your question, again?

25 Q. Well, a lot of times, to get a college degree, before

1 someone majors in something, there are basic classes, like
2 math, science, history, and English. So I was just curious
3 if you had to take any of those types of classes.

4 A. Well, there were a certain amount of electives, I think,
5 is what they were called. Yeah.

6 Q. And what exactly does a mechanical engineer do?

7 A. I think that that -- it's a pretty wide variety. What I
8 did -- what I did --

9 Q. Sure.

10 A. -- was I was working on -- at a company called Silicon
11 Microstructures -- which you can't find anymore, it's been
12 bought out. I don't know, it might exist as part of another
13 company at this point.

14 I was what the -- what the company was working on
15 was pressure sensors and accelerometers, and there's a lot
16 of high-tech stuff there. I was doing the lower-tech stuff.
17 I was -- I was doing what's called "package design." Well,
18 part of what I was doing was package design. That means I'm
19 designing the plastic enclosure that the -- that these
20 electrical devices would go in, so little -- little plastic
21 enclosures. I would design it and then bring it to, you
22 know, a metal manufacturer -- I forget what you call those
23 guys -- and they would build a mold, and then we would have
24 it printed. We would have them mass produced, the plastic
25 parts.

1 Q. I believe you also mentioned that you are working on a
2 book currently; is that correct?

3 A. Yes.

4 Q. And how long have you been working on the book?

5 A. I think at least two years, I think.

6 Q. And did you have to do any kind of research to write the
7 book, or is this based on your own opinions?

8 A. Well, there is research that I'm doing.

9 Q. Can you tell us a little bit about the research that you
10 need to do in your process of writing?

11 A. Yes. It's based on prophecy. So I'm listening to --
12 it's -- a lot of it is -- not all of it, but a lot of it is
13 recorded orally and on, like, YouTube videos, and whatnot.
14 And there is -- there is -- a lot of this is in Russian, so
15 there's -- so I am working on translation. So there's --
16 for example, there is a very young boy named Otrok
17 Viacheslav from Russia, and he's talking about the -- the
18 end times, the biblical end times; but he says they're --
19 they're upon us, and what we need to do for that.

20 Q. How are you doing those translations? Are you fluent --
21 do you speak other languages besides English?

22 A. No, no, no. These -- these are translated by others and
23 put online. There is also a woman named Sylvie Ivanova, who
24 is fluent in Russian, and she studied a wide variety of
25 prophets; and I'm using some of her work as well.

1 Q. You also told us about some various lawsuits that you
2 have been involved in. That was more than two lawsuits?
3 Approximately, how many lawsuits have you been involved in
4 over time?

5 A. Well, I don't know how many, but it's definitely more
6 than two. Including small lawsuits, it's -- including small
7 claims cases, maybe eight or ten. I don't know.

8 Q. And in all or most of those cases, instead of paying a
9 lawyer, you represented yourself or filed lawsuits on your
10 own behalf or your own interest; did I understand that
11 correctly?

12 A. In -- in most of them, yes.

13 Q. And I believe you used the term that some of the
14 litigation -- or maybe it was just with regard to the
15 parking ticket -- that it was a matter of principle; is that
16 right?

17 A. Yes.

18 Q. Turning your attention to the plan to come down to
19 D.C. -- and I understand it was a plan that came together
20 within just a few days of January 6th; is that right?

21 A. Yes.

22 Q. And part of the reason was because you wanted to take a
23 break. You had just finished a big project, just kind of
24 wanted a mental break, and coming to D.C. was a way to do
25 that; is that correct?

1 A. It's not exactly what I would say. It just seemed
2 like -- the part of it that you are referring to, it just
3 seemed like it would be a nice outing.

4 Q. Well, definitely correct me because I want to
5 understand, and I don't want to put words in your mouth.
6 So, I mean, please -- if I misstated it, please explain.

7 A. I just said it. I just said it. A nice outing -- a
8 nice time to go with my friends to Washington, D.C.; it
9 would be enjoyable.

10 Q. And the plan --

11 A. I said that that's part of the reason.

12 Q. Okay. Any other reasons?

13 A. Yeah. But you didn't ask that. But the other -- I
14 mean, I also wanted to show some support for Donald Trump.

15 Q. Okay. And not my word -- but I think you said you and
16 Brian are both sort of "cheapskates," so you weren't
17 planning on spending the night; is that right?

18 A. Yes. That's true. I was -- when I said "cheapskates,"
19 it might be true, but that was just a joke. But -- but we
20 are cheapskates, but that's not necessarily why we made the
21 plan that way.

22 Q. Sure. So that was partially a joke; I just didn't want
23 to insult you by using the word "cheapskate."

24 Were there any other reasons why the plan was to
25 just come for the day and not stay overnight?

1 A. I think it was -- I think it was -- a good part was to
2 save money. That's the way he suggested it to me, and I
3 just went with it.

4 Q. From where you live in Athol to Yonkers, to Manhattan,
5 to D.C. -- what's your best recollection of how long that
6 entire trip took?

7 You said you stopped at someone's apartment for a
8 little bit before you hit the road again. So are we talking
9 8 hours, 12 hours?

10 A. Well, I think the driving by itself is about 8 hours.
11 But since I stopped at Brian's for a couple of hours maybe;
12 that would bring it to 10. Maybe throw in another hour for
13 whatever -- getting food or whatever. I don't know.

14 Q. And so you thought it would be a nice outing, kind of a
15 bit of a nice rest, maybe hit a restaurant, to drive 10-ish
16 hours, be in D.C. for a day, and then drive 10 hours back;
17 is that right?

18 A. Yes. Yes. I realize it's a lot of driving, but it
19 was -- it would be exciting.

20 Q. You talked quite a bit about feeling that the 2020
21 presidential election was fraudulent; is that correct?

22 A. I don't know how much I talked about it, but I do
23 believe the election was fraudulent, yes.

24 Q. And you wanted to go to the "Stop the Steal" rally to
25 show your support for Donald Trump and because you were

1 interested in the election fraud; is that right?

2 A. Those are not my words. I -- I do -- I am not -- I know
3 it was called the "Stop the Steal" rally by some -- by many
4 people -- I know that. But I wanted to go to the Trump
5 rally to show my support for Donald Trump.

6 I am not sure if I answered your question or not.

7 Q. And you said that there were other speakers at the rally
8 in addition to then-President Trump; is that correct?

9 A. No, I didn't say that.

10 Q. Oh, I'm sorry.

11 Weren't there other speakers besides --

12 A. I think there were, but I didn't say that.

13 Q. Okay.

14 A. I don't think I said that.

15 Q. So you only thought Donald Trump spoke at the rally; is
16 that right?

17 A. No. No.

18 Q. All right. Were there speakers in addition to Donald
19 Trump that spoke at the "Stop the Steal" rally?

20 A. I believe there were.

21 Q. When you were at the "Stop the Steal" rally, did you
22 hear Congressman Mo Brooks say: Today is the day for
23 American patriots to start taking down names and kicking
24 ass?

25 A. This is the first I've heard that.

1 Q. Did you hear Congressman Mo Brooks say: Are you willing
2 to do what it takes to fight for America?

3 A. No. Are you talking about who spoke before Donald
4 Trump? Is that what you are saying?

5 Q. Yes.

6 A. First of all, I didn't -- I didn't think I heard anybody
7 speak before Donald Trump.

8 Second of all, I couldn't hear anything that any
9 of them were saying, for the most part, because of the
10 conditions that I discussed on direct examination.

11 Q. Did you hear Donald Trump say: All Vice President Pence
12 has to do is send it back to the states to recertify and
13 then we become president, and you are going to be the
14 happiest people?

15 A. No, I didn't hear that. I -- I didn't hear the speech.

16 Q. Did you hear Trump say: We're going to walk to the
17 Capitol and cheer on our brave senators and congressmen and
18 women?

19 A. I didn't hear the speech.

20 Q. Did you hear Trump say: We have to demand Congress do
21 the right thing and count electors who have been lawfully
22 slated?

23 A. I didn't hear the speech.

24 I am not acknowledging he even said those things.
25 I don't know if he did or not, but I didn't hear the speech.

1 Q. What did you hear Donald Trump say at the "Stop the
2 Steal" rally?

3 A. At the Trump rally -- I am not denying that it is called
4 the "Stop the Steal" rally, but I didn't call it that; I
5 didn't -- but I am not denying that I knew that it was
6 called that by many people.

7 I heard very little of what he said. If you
8 strained, you could hear a few words, that's it. That's why
9 I left, and that's why everybody left. It -- tens of
10 thousands of people were leaving, and we couldn't hear it
11 anyway.

12 Q. So of the tens of thousands of people who left the Trump
13 rally, they didn't all go to the United States Capitol;
14 isn't that right?

15 A. I -- I don't know. I assume at least some of them
16 didn't.

17 Q. And when you got to the grounds of the Capitol, the
18 grassy area we have seen pictures of -- not everyone on that
19 grassy area moved closer to the Capitol Building; would you
20 agree with that?

21 A. Nobody did. I don't understand what you mean.

22 Q. Well, you and the folks you were with moved closer to
23 the Capitol Building once you were on the grassy area,
24 correct?

25 A. I -- I am confused. What "grassy area"? Do -- do you

1 mean in front of the -- at the Washington Monument?

2 Q. No. I am talking on the Capitol grounds.

3 A. Oh, I'm sorry.

4 Q. That's okay.

5 A. Ask it again.

6 Q. So on the Capitol grounds --

7 A. Yeah.

8 Q. -- there is sort of a grassy area before the building;
9 and not everyone on the grassy area moved towards the
10 Capitol Building itself?

11 A. Oh, right.

12 Q. But you did?

13 A. Yes.

14 Q. And the other folks you were with did at first,
15 correct -- moved forward closer to the Capitol?

16 A. They -- they moved with me all the way -- the way to the
17 scaffolding.

18 Q. So speaking of the scaffolding, you mentioned that there
19 were sort of -- your word -- "landmark" destination points;
20 is that right?

21 A. Those are not my words, but yes. The same meaning, yes.

22 Q. Okay. What are your words? I just want to --

23 A. We just said as an -- as an objective. I said -- I said
24 to the other guys: Well, let's -- let's try to get to
25 that -- whatever object, you know, those steps or whatever.

1 And they -- they said: Okay. Let's -- let's all do that.
2 So then we would try to go there.

3 And then: Let's try to get to those steps over
4 there -- and we're setting objectives like that.

5 Q. And why -- what made it an objective that it was, like,
6 we have to try to get there, as though it took some kind of
7 effort, as opposed to just walking there? Was there
8 obstructions in the way?

9 A. It -- it did take effort because there were so many
10 people, and it got more and more dense as you got there. So
11 it was really -- it was kind of a challenge.

12 I mean, we were almost, like, sardines by the time
13 we got to the scaffolding. And then we said: Let's try to
14 get up the scaffolding. It just sounded -- just seemed fun
15 and exciting.

16 Q. And you thought it was permissible to be on the
17 scaffolding on the inaugural stage?

18 A. I had no -- I had no reason -- I did not know -- yes. I
19 did not know any -- otherwise. And there were so many
20 people, nobody was telling us not to be there. There
21 were -- I had no reason to think otherwise that I know of.

22 Q. In other life experiences -- not January 6th, not the
23 Capitol grounds -- do you think it's permissible to climb up
24 construction scaffolding?

25 A. If there is nobody on a scaffolding, in general --

1 generally, it wouldn't be. When there is people everywhere
2 and -- it just didn't -- it didn't -- it didn't occur to me
3 that it was -- that it was improper. There was just people
4 everywhere. This is what everybody was doing, and there was
5 no indication -- there were police at the top, they weren't
6 telling us to go.

7 Q. So because you saw a bunch of other people doing it you
8 thought it was permissible to go on the scaffolding?

9 A. I wouldn't word it like that.

10 It didn't occur to me. There was no -- it didn't
11 occur to me that there was -- it wasn't permissible.

12 Q. And in crossing the west lawn of the Capitol to get to
13 the scaffolding, you didn't see the lawn littered with "Area
14 Closed" signs, such as what I am holding up in Exhibit 218?

15 A. I saw none of those.

16 Q. None of these laying on the grass?

17 A. No.

18 Q. What about bike racks?

19 A. I did not see any bike racks. At the -- at the Ronald
20 Reagan Building there may have been some bike racks. But
21 other than that, I don't -- I don't remember seeing any bike
22 racks.

23 Q. At the Capitol?

24 A. At the Capitol, or even on the way to the Capitol.

25 Q. But directing your attention to the Capitol grounds, you

1 don't see any bike racks?

2 A. I don't remember seeing any bike racks.

3 Q. And then, after the scaffolding, it was a goal to get
4 even closer to the building where you saw a commotion; is
5 that right?

6 A. Yes.

7 Q. By that point, three of the other people in your group
8 did not go with you any closer to the lower west terrace;
9 did I understand that correctly?

10 A. I am not sure. They might have started. If they -- if
11 they did start, they stopped pretty soon, and then it was
12 just me and Brian for a while.

13 Q. And you and Brian progressed closer to the lower west
14 terrace tunnel; is that right?

15 A. Yes.

16 Q. And you saw that there was a commotion there; is that
17 right?

18 A. Yes.

19 Q. You saw that there was law enforcement there; is that
20 right?

21 A. At some point I did. I don't know exactly when that
22 was. It -- when I parted with Brian, I don't know if at
23 that point I was aware of it. I might have been, but I
24 don't know.

25 Q. At some point, I think you said maybe about 50 or

1 75 yards -- maybe you said feet -- from the tunnel Brian
2 dropped off; and he didn't continue on, did he?

3 A. Yes. I said feet, 50 feet.

4 Q. Fifty feet.

5 A. I estimate.

6 Q. So you kept proceeding towards the lower west terrace
7 tunnel, but now it's just you. Everyone else you had come
8 with, they did not continue on; is that right?

9 A. Yes.

10 Q. You said in your direct testimony that you heard people
11 like Rudy Giuliani, Sidney Powell, and Trump basically say
12 that the 2020 election was rigged; is that right?

13 A. Yes.

14 Q. And you concluded that the election was stolen; is that
15 correct?

16 A. Yes. Yes.

17 Q. And you also said you knew electors were chosen by each
18 state, on your direct testimony?

19 A. I don't remember exactly what my testimony was.

20 This is something -- it's something I -- it's
21 something I -- I probably knew, I think I did know; but I
22 just -- I hadn't thought about that in a long time. But,
23 yes, I think I knew -- would have known that if I had been
24 asked.

25 Q. So just to be clear, you don't remember your testimony

1 from, like, an hour and a half ago?

2 A. I don't remember that point. I don't remember that
3 point.

4 Q. From the Trump "Stop the Steal" rally you went to the
5 Reagan Building; is that right?

6 A. Yes.

7 Q. And then you were at the Reagan Building, I think you
8 said, maybe 30 or so minutes; is that right?

9 A. I think it was at least 45 minutes.

10 Q. Okay. Forty-five minutes.

11 And were there other people who appeared to have
12 been at the Trump rally that were also at the Reagan
13 Building?

14 A. Yes.

15 Q. And then, after about 45 minutes, you and the others
16 walked about a mile to the Capitol; is that right?

17 A. However far it is, yes.

18 Q. And you said you walked at just a normal pace; it maybe
19 took 30 minutes or so?

20 A. Yeah. I think just -- I -- I am not sure what I said,
21 but I -- I guess it would be about 30 minutes.

22 Q. So, again, you are not sure what you said on your direct
23 testimony, like an hour ago?

24 A. I thought -- to the best of my recollection, I didn't
25 estimate the time. I -- I think I didn't estimate the time.

1 Q. I believe you said thousands of people were heading in
2 the direction of the Capitol; and you heard someone say:
3 Trump said we're supposed to go to the Capitol; is that
4 right?

5 A. I'm sorry. Ask it again, please.

6 Q. You testified, on direct, that thousands of people were
7 going in the direction -- leaving the rally, going in the
8 direction of the Capitol; and you heard someone say, quote,
9 Trump said we're supposed to go to the Capitol?

10 A. Yeah. Yeah.

11 Q. Once you got to the Capitol, it was nice to be with
12 like-minded people; is that right?

13 A. Yes.

14 Q. And you felt a sense of unity; is that right?

15 A. Yes.

16 Q. And my notes, from what you said on direct, say that you
17 actually saw police once you got on the grounds of the
18 Capitol; so, like, back on the grassy area -- "the grassy
19 area" are my words, not yours -- you saw police way far up
20 close to the Capitol?

21 A. What I said was that I saw -- I saw -- I think what I
22 said is that I saw a few police officers way up on the top
23 of the Capitol Building, high up on the Capitol Building.

24 Q. And that was the area you were trying to get closer to,
25 right?

1 A. Yes. They were in the -- they were in -- they were on
2 the building that I was trying to get closer to.

3 Q. You said you knew the protesters were doing something,
4 and you wanted to do something more because something had to
5 be done; you can't have a stolen election.

6 That was your testimony on direct; is that right?

7 A. I think I said something like that.

8 Q. And you thought you could do something; you thought you
9 could get into the Capitol to go in. You said that on
10 direct?

11 A. At some point, I -- I thought I could get into the
12 Capitol. I would try to get into the Capitol.

13 Q. That no one had done anything -- not legislators, not
14 the 60 lawsuits, not the politicians -- and it was on the
15 citizens to take a stand; is that right?

16 A. I mean, you are changing it a bit.

17 I mean, it's just -- it's just -- I said something
18 like that. But I said sometimes it falls on -- I think I
19 said that sometimes it falls on citizens to -- to take
20 action when all of the other parts of government that are
21 supposed to handle it don't -- don't do it. I think that I
22 said something like that.

23 Q. And you felt it was your sense of responsibility to fix
24 what no one else could?

25 A. Again, you are just changing it somewhat.

1 I mean, it's just -- it's just this sense of
2 responsibility came upon us, came upon me, and a sense of
3 just the importance of it, because it was falling upon me
4 and some other citizens to try to do something because --

5 Q. To do what? About what?

6 A. The stolen election. The -- it's a constitutional
7 crisis when you just steal an election. It's just -- I
8 don't want to see that happen to the country, and I wanted
9 to do something to stand up for the country.

10 Q. And this was our "only chance"; you said that on direct?

11 A. Again, those are certainly not my exact words. But I
12 did feel that -- I wasn't going to be there anymore, and
13 these other protesters were going to be leaving, so if --
14 if -- if me and the other protesters were going to do
15 something together, it would have to be now.

16 Q. So this was your only chance, right?

17 A. Yeah. I guess you could say that.

18 Q. I'm not trying to put words in your mouth, sir. I am
19 going off my notes; and I invite the jury to go off their
20 notes.

21 MR. WATKINS: Objection.

22 THE COURT: Overruled.

23 BY MS. SCHESNOL:

24 Q. But if I am misstating something, please clarify.

25 A. Well, I think you said that that's what I said, and

1 that's not -- that's not what I said. Those are not the
2 words I used, so I rephrased it in my words.

3 Q. You didn't say on direct: This was our only chance --

4 A. Well, I --

5 Q. -- if I was going to do something, I had to do it at
6 that moment?

7 A. It's possible. I -- I don't have a photographic memory.
8 I don't remember exactly what I said; but I just expressed
9 to you what I think I said.

10 Q. So, again, you are not clear on what you said on direct
11 an hour ago?

12 A. I am pretty clear that I didn't say the exact words you
13 said, at least that was my impression. So that's why I
14 rephrased it how I think I would have said it.

15 Q. Once you were at the lower west terrace tunnel, you saw
16 a line of police, correct?

17 A. Inside the tunnel, yes.

18 Q. And you proceeded towards those police, correct?

19 A. When I rushed into them, yes.

20 Q. So you rushed into the police in the lower west terrace
21 tunnel, correct?

22 A. Yes. Yes.

23 Q. And you were doing that to get past them to get inside
24 the Capitol Building, right?

25 A. Yes. Yes.

1 Q. And you knew that the police were doing their job that
2 day, right?

3 A. Yes.

4 Q. Okay. And you had a different job to do that day,
5 right?

6 A. I certainly had a different job than the police had.

7 Q. Your job was to get into the Capitol, right?

8 A. My objective was to get into the Capitol.

9 Q. And to accomplish your objective of getting into the
10 Capitol, you had to get past those police officers doing
11 their job, correct?

12 A. Yes. You could say that.

13 Q. Well, I did say that.

14 Would you say that?

15 A. I'm saying, when I say "you could say that," that means
16 I am saying you know what that means. I mean, it just
17 means -- it means, yes, you could say it that way.

18 Q. So you're interfering with law enforcement officers,
19 police doing their job on January 6, 2021, at the
20 United States Capitol, right?

21 A. Those -- I was trying to get into the building.

22 Q. And to get into the building, you had to get through the
23 officers doing their job that day, right?

24 A. Yes.

25 Q. So you were interfering with them doing their job,

1 correct?

2 A. I just don't want to use those words. I was just trying
3 to get into the Capitol.

4 Q. Were you opposing what the police were doing on
5 January 6th?

6 A. I don't want to use that word either. I was trying to
7 get into the Capitol.

8 Q. You talked about having a riot shield because someone
9 sort of handed it to you when you first got to the tunnel;
10 is that correct?

11 A. I said that was my memory, that somebody handed it to me
12 just as I got into the tunnel.

13 Q. Didn't you have a riot shield at multiple times when you
14 were in the tunnel?

15 A. I think -- I think -- I think that's true.

16 Q. And the riot shield belonged to the police, correct?

17 A. Yes. As far as I know, yes.

18 Q. So by you having police equipment, you were interfering
19 with them doing their job, right?

20 A. No. I don't agree with that.

21 Q. You don't think you interfered with the police when you
22 had their equipment?

23 A. I was just holding something that somebody gave to me;
24 and I was defending myself, defending my eyes. I didn't
25 want to get the spray in my eyes. I -- I don't call that

1 "interference."

2 Q. But you could have just left if you didn't want to get
3 spray in your eyes.

4 A. I felt a responsibility to the country. I -- I felt
5 like there was a constitutional crisis. It was just very
6 important that I do something to help.

7 Q. Were you helping the country when you grabbed Sergeant
8 Riley by the arm and tried to pull him into the crowd?

9 A. The intent was good. The intent was to get into the
10 building to protest, to try to -- to try to bring attention
11 to something very wrong that had happened, that's the
12 election had gotten stolen.

13 Q. So to get in the building to deal with the fact that the
14 election had been stolen, right?

15 A. To get in the building to protest what had happened and
16 draw attention to it.

17 Q. You acknowledge you grabbed Sergeant Riley by the arm,
18 correct?

19 A. Yes.

20 Q. You put both -- two hands on Sergeant Riley's arm,
21 correct?

22 A. Yes.

23 Q. And you pulled him, correct?

24 A. Yes.

25 Q. For several seconds, correct?

1 A. Yes.

2 Q. And you only did that when the pushing didn't work;
3 isn't that right?

4 A. I tried pushing, I tried rushing; that didn't work. And
5 then the idea came to me, let me try pulling and see if that
6 works.

7 Q. With two hands?

8 A. Yes.

9 Q. At points in the video it looks like you're pulling
10 pretty hard, right?

11 A. I -- I think so.

12 Q. You saw Sergeant Riley testify. He is not a pipsqueak,
13 right?

14 A. He is not a pipsqueak? I don't -- I don't know what to
15 say to that.

16 Q. So you had to use your strength and your effort in your
17 attempt to pull him out of the police line, right?

18 A. Yes.

19 Q. And after pulling Sergeant Riley out of the police line
20 didn't work, you didn't leave the lower west terrace tunnel,
21 did you?

22 A. That's right. I did not immediately leave, yes.

23 Q. You pointed at the officers; and you yelled at them
24 "traitor" and "treason," right?

25 A. Yes. Yes.

1 Q. And, after that, you continued to move even closer to
2 the Capitol Building within the tunnel area, right?

3 A. Yes.

4 Q. And you saw the videos. You got so close to the doors
5 of the Capitol that at some point we couldn't even see you
6 on the camera, correct?

7 A. Yes. I went out of -- I -- I -- at a certain point, I
8 went out of the field of view of the camera.

9 Q. And you were so close to the doors of the Capitol that
10 you knew that there were two sets of doors, that there were
11 double sets of doors, correct?

12 A. I don't know if I knew that or not.

13 Q. Well, you said on the AP video that: If you had more
14 people behind, you could have gotten through the second set
15 of doors.

16 A. I know. I think I was misunderstanding. I mean, it's
17 a -- it ends up being -- no. Yeah. I was -- when I said
18 that, I meant something else.

19 I think I thought that there had been a door at
20 the opening of the tunnel. I -- this is erroneous, but this
21 is what I thought, and that it did -- it had been broken out
22 or something; and so I thought that first set of doors was a
23 second set of doors. So I was referring to the first set of
24 doors.

25 Q. But you knew there were two sets of doors, right?

1 A. No. I just described what I knew. I believed
2 erroneously -- so I did believe there were two sets of
3 doors, but it's a different set of doors -- different pair
4 than what you are thinking of.

5 I -- there's a set at the opening which do not
6 exist, but I thought there had been one. And so I was
7 referring to the -- the first set of doors you come to as
8 the second set.

9 Q. And you were willing, had you been successful, to go
10 through a second set of doors to get into the Capitol
11 Building, correct?

12 A. Well, I hadn't gone through one, so I would have been
13 going through one. I was going through one set of doors is
14 what I was talking about.

15 Q. Well, you erroneously thought there was a set of doors
16 that was broken out?

17 A. Yes.

18 Q. So you thought the set of doors you actually got to was
19 the second set of doors?

20 A. I guess so, yes.

21 Q. So you were willing to go through a second set of doors
22 to get into the Capitol Building?

23 A. Well, no. That's not correct because the first set
24 didn't exist, and I never went through a first set of doors.
25 And I just thought that there -- when I -- I just thought

1 that there had been a set there.

2 Q. So when you said that you could have gotten through the
3 second set of doors -- at the time you said that, you did
4 think there were two sets of doors?

5 A. I did, but I didn't go through the first -- I knew that
6 I -- the first set of doors didn't -- I didn't go through
7 the first set because I thought they were gone. In fact,
8 they never existed, but I thought they just had been gone.
9 So it depends on what you mean by "go" -- if you go through
10 a set of doors that's not there that used to be there -- you
11 know, have you gone through a set of doors if it's not
12 there?

13 Q. Okay. So let's explore that a little bit.

14 You erroneously thought there had been a set of
15 doors that had been broken out, correct?

16 A. I think that's what I was thinking, yes.

17 Q. And you thought they were broken out in the course of
18 this riot, correct?

19 A. I think that's what I assumed.

20 Q. So you thought a set of doors was broken out during a
21 riot so you couldn't go through them, but you acknowledged
22 that you thought a set of doors had been broken out,
23 correct?

24 A. I think that's what I was thinking.

25 Q. And so you were going to go through -- you hadn't gone

1 through one set because it didn't exist anymore -- you
2 thought it had existed -- so you were willing to go through
3 that second set of doors, correct --

4 A. I -- that's what I was saying in the -- yes.

5 Q. -- to get into the Capitol --

6 A. Yes.

7 Q. -- because the election was stolen?

8 A. Yes. I wanted to get in to protest to try to help the
9 country.

10 Q. And you only left the lower west terrace tunnel once
11 officers pushed you and other rioters all the way out; isn't
12 that correct?

13 A. Yes.

14 Q. And from watching the video, you were in the tunnel for
15 at least 15 minutes, right?

16 A. Something like that.

17 Q. And that was after you had been on the scaffolding,
18 correct?

19 A. Yes.

20 Q. And after you had gotten to other landmarks or objective
21 points on the Capitol grounds, correct?

22 A. Yes.

23 Q. And after you were pushed out of the tunnel you felt a
24 sense of indignation, right?

25 A. After I got smacked hard in the head three times, I felt

1 a sense of indignation; I mean, full -- full blows with a --
2 with a police baton.

3 Q. If you thought you had a right to be there, then why did
4 you think that the police were whacking you in the head to
5 get out?

6 A. We're talking about two different things.

7 The area -- well, I don't -- I don't know exactly
8 what you are talking about. When you say when I had a right
9 to be exactly where --

10 Q. Well, you were in the lower west terrace tunnel --

11 A. Yes.

12 Q. -- and there are police there whacking you -- those are
13 your words -- to get out, correct?

14 A. I don't think -- well, I was whacked several times.

15 Those last whacks, I don't think they were to get out; I
16 think there was a different motive there.

17 But it -- I had been hit at least once earlier.

18 Q. And the police used pepper spray on you, right?

19 A. Yes. Well, what I am trying to say is I did not know
20 that I -- that I couldn't be at that -- I did not know about
21 this restricted area.

22 Q. Okay. But you knew when you were in the tunnel, when
23 police were whacking you on the head and using pepper spray,
24 that they probably didn't think that you belonged there,
25 correct?

1 A. I knew that the police did not want me to go past the
2 police line and into the building.

3 Q. And they didn't even want you coming into the tunnel
4 because they were using pepper spray to try to keep you and
5 the other rioters out of the tunnel, correct?

6 A. No. That was not so clear.

7 When I got in, there was a police line -- and you
8 can see this on the video -- now, I am going to guess maybe
9 six feet back, but it might have been more, might have been
10 less. And they were standing there; I was standing there.
11 Nobody told me to get out; nobody -- at no time did anybody
12 tell me to get out.

13 And they -- they -- no. They formed a police
14 line, and it was implied that that's the line; that's the
15 line.

16 Q. Why would there have been a police line six police deep
17 if you were allowed to be there?

18 A. Why would they not ask me to leave if at that moment
19 their intention was to just stop us from going past that
20 line?

21 Q. Because there were 30,000 of you and they were
22 outnumbered 30 to 1. Could that be the reason they didn't
23 ask you nicely?

24 A. They didn't ask me at all.

25 I -- well, look, when I first got in there, I

1 didn't know what to make of it. But the -- it was -- there
2 was a visual thing that the police's -- that the police
3 line -- that's where the line was.

4 Q. So there is a police line, six police deep, and you
5 think because no one asked you nicely to leave that it was
6 okay that you were there?

7 A. We're talking about two different things.

8 No, I don't agree with -- everything you just
9 said -- I don't agree with that wording, and I don't want to
10 parse it all.

11 But -- but there's two different concepts that I'm
12 trying to get at here. One is -- because I know that these
13 charges revolve partly around the restricted area -- there
14 was no evidence to leave a restricted area up to the police
15 line.

16 Q. So once you are at the police line --

17 A. Yes.

18 Q. -- and the police are six deep, you think you have a
19 right to be there because no one asked you nicely to turn
20 around and walk away?

21 A. In the entrance of the tunnel, I -- I -- I -- it was not
22 clear to me that I shouldn't be within that entrance of the
23 tunnel standing there. That was not -- it was not clear to
24 me that I shouldn't be there.

25 Q. You are a smart man. You are writing a book; you are a

1 mechanical engineer -- I don't even know what that means --
2 and it wasn't clear to you that you weren't supposed to be
3 there when there is a line of police six feet deep; is that
4 what you want us to believe?

5 A. I don't know if we're talking about the same thing.

6 When I'm standing at the entrance to the tunnel --
7 can I illustrate? I mean, I am just standing there and
8 they're standing there (indicating). No. At that moment,
9 I -- it was not clear to me that I shouldn't be there.

10 Q. Was it clear to you when the police used pepper spray on
11 you that you weren't supposed to be there?

12 A. At a certain -- I -- at a certain point, I think it
13 became evident that the police wanted me to go, or they
14 wanted us to go.

15 Q. But you stayed, didn't you?

16 A. Yes. For a time.

17 Q. As a matter of fact, after you were eventually pushed
18 out of the tunnel, you told the AP that you were very close
19 and you could have won it.

20 Do you remember that from the video?

21 A. I think we're conflating two different concepts here.
22 The -- the one concept is -- is the -- the perimeter, the
23 perimeter -- the restricted area.

24 Q. Forget the perimeter. Let's focus on the tunnel, okay?

25 You are in the tunnel 15 minutes, right?

1 A. Yes.

2 Q. You use a police shield to push at police, correct?

3 A. Yes.

4 Q. And when that doesn't work, you grab Sergeant Riley with
5 two hands and pull him by the arm, correct?

6 A. Yes.

7 Q. Then you call them "traitors" and "treason," right?

8 A. A little bit later, yes.

9 Q. And then you get closer and closer into the tunnel,
10 right?

11 A. Yes.

12 Q. And eventually -- after 15 minutes or so, you eventually
13 get shoved out of the tunnel, right?

14 A. Yes.

15 Q. And then you give an interview to the Associated Press
16 where you say: We were very close. We could have won it --

17 A. Again, I think we're -- there's two different concepts,
18 and I think it's not clear what we're talking about.

19 I did not know that I was in a restricted area,
20 including in the outside of the tunnel. I did know that the
21 police didn't want me to go past the police line, I am not
22 denying that.

23 Q. Okay. So let's keep talking about that. You get --

24 THE COURT: Do we need to keep talking tonight?

25 MS. SCHESNOL: No.

1 THE COURT: Because it is now five after 5.

2 MS. SCHESNOL: Oh, I didn't realize, Your Honor.
3 I apologize.

4 THE COURT: I didn't think so. I was waiting for
5 the right moment. If you were going to finish up in the
6 next two minutes, maybe the jurors would stay for two
7 minutes; but it sounds to me like you might be going longer.

8 MS. SCHESNOL: Longer than two minutes, and I did
9 not realize the time. I apologize.

10 THE COURT: All right. So, ladies and gentlemen,
11 I am going to thank you. I know we're going a little bit
12 over. Thank you very much for your patience today.

13 If you can be here at 9 a.m. tomorrow morning --
14 don't breathe on anybody. Don't get exposed. I need every
15 single one of you healthy coming in tomorrow.

16 All right. Enjoy your evening. Do not listen to
17 the news. Do not talk to each other or anybody else about
18 this case.

19 Thank you. Have a nice evening.

20 (Whereupon, the jury was excused.)

21 THE COURT: Mr. Gillespie, you are excused.

22 All right. I will see you all at 9 a.m. tomorrow
23 morning.

24 MS. SCHESNOL: Good night, Your Honor.

25 (Whereupon, the proceedings conclude, 5:07 p.m.)

CERTIFICATE

I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby certify that the foregoing constitutes a true and accurate transcript of my stenographic notes, and is a full, true, and complete transcript of the proceedings to the best of my ability.

This certificate shall be considered null and void if the transcript is disassembled and/or photocopied in any manner by any party without authorization of the signatory below.

Dated this 3rd day of March, 2023.

/s/ Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

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