

1 STATE OF NEW MEXICO
2 COUNTY OF SANTA FE
3 FIRST JUDICIAL DISTRICT COURT

4 STATE OF NEW MEXICO, ex rel.,
5 MARCO WHITE, MARK MITCHELL,
6 and LESLIE LAKIND,

7 Plaintiffs,

8 vs.

9 NO. D-101-CV-2022-00473

10 COUY GRIFFIN,

11 Defendant.

12 TRANSCRIPT OF PROCEEDINGS

13
14 On the 15th day of August, 2022, at approximately 9:00
15 a.m., this matter came on for hearing for Trial on the Merits
16 before the HONORABLE FRANCIS J. MATHEW, Judge of the First
17 Judicial District, State of New Mexico, Division I.

18 The Plaintiffs appeared in person and by Counsel of
19 Record, JOSEPH GOLDBERG, FREEDMAN BOYD HOLLANDER & GOLDBERG, 20
20 First Plaza NW, Suite 7800, Albuquerque, New Mexico 87102; and
21 CHRISTOPHER A. DODD, DODD LAW OFFICE, LLC, 20 First Plaza,
22 Albuquerque, New Mexico 87102; DANIEL A. SMALL, COHEN MILSTEIN
23 SELLERS & TOLL, PLLC, 1100 New York Avenue NW, Fifth Floor,
24 Washington, D.C. 20005; NIKHEL SUS, CITIZENS FOR RESPONSIBILITY
25 AND ETHICS IN WASHINGTON, 1331 F Street NW, Suite 900,

1 Washington, D.C., 2004;

2 The Defendant COUY GRIFFIN, appeared in person.

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At which time, the following proceedings were had:

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THE COURT: We're on the record in the matter of State of New Mexico, ex rel., Marco White, Mark Mitchell and Leslie LaKind versus Couy Griffin, Santa Fe County Cause No. D-101-CV-2022-000473.

May I have appearances, and I'll take the plaintiff first, please.

MR. GOLDBERG: Good morning, Your Honor. Joseph Goldberg, Freedman Boyd Hollander --

THE COURT: Sir, you're going to have to speak into the microphone.

MR. GOLDBERG: I'm sorry. Yes. Good morning, Your Honor. Joseph Goldberg, Freedman Boyd Hollander & Goldberg, for the Plaintiffs. With me at counsel table is Joe Simons, who is I call the hot seat person, but the person who will be handling the technology. With me as counsel are Daniel Small, Christopher Dodd, and Nik Sus, S-U-S. In addition, Your Honor, all three Plaintiffs, Mr. Mitchell, Mr. White and Mr. LaKind, are here in the courtroom.

THE COURT: Thank you. Now for the defendant.

MR. GRIFFIN: Good morning, Your Honor. Couy Griffin, pro se, defendant.

THE COURT: Thank you. We're here on a trial on the merits on a petition to remove Mr. Griffin. We have some

1 preliminary matters. Based upon my review of those preliminary
2 matters, it would appear that the Plaintiffs' motion to quash
3 should be taken first.

4 Mr. Goldberg.

5 MR. GOLDBERG: It's not our motion to quash. It's
6 Mr. Griffin's motion to quash.

7 THE COURT: You have a motion to quash his response.

8 MR. SUS: Good morning, Your Honor.

9 THE COURT: Good morning, sir.

10 THE COURT REPORTER: Can you give me your name,
11 please.

12 MR. SUS: Nikhel Sus. Do you need me to spell it?

13 THE COURT REPORTER: No.

14 MR. SUS: So, Your Honor, are you referring to the
15 motion to strike the reply brief, the surreply brief?

16 THE COURT: Yes.

17 MR. SUS: Well, Your Honor, there is -- there is
18 some arguments that Mr. Griffin had raised for the first time in
19 his reply brief in support of his motion to dismiss. We have
20 filed a motion for leave to file a surreply or in the
21 alternative to strike the untimely raised arguments.

22 Is that what you'd like to hear?

23 THE COURT: Yes.

24 MR. SUS: In the first instance, Your Honor,
25 Mr. Griffin's Motion to Dismiss/Motion to Quash was untimely.

1 The Court set a July 5 deadline for the parties to -- or for
2 Mr. Griffin to file a motion to dismiss. He filed his motion on
3 July 25, which was over two weeks late.

4 It's particularly inappropriate for Mr. Griffin to
5 file a late filed motion because of the context of this
6 proceeding. It's a *Quo Warranto* proceeding. And as Your Honor
7 knows, the statutes sets a timeline for the proceedings. So
8 the motion to dismiss itself is untimely.

9 In addition, as mentioned, Mr. Griffin's reply
10 raises, for the first time, an argument that the United States
11 should be joined in this case as an indispensable party. Our
12 position, Your Honor, is that that argument is forfeited because
13 Mr. Griffin raised it for the first time in his reply brief.

14 Would you like to hear arguments on the merits of
15 the motion to dismiss?

16 THE COURT: No. I want to hear from Mr. Griffin on
17 this.

18 MR. SUS: Sure.

19 THE COURT: Mr. Griffin.

20 MR. GRIFFIN: Thank you, Your Honor.

21 In response to the Plaintiffs' defense, as far as
22 time constraints, we know that this particular motion that you
23 have before you is in regard to subject matter jurisdiction.
24 These motions, as you know, Your Honor, can be filed at any
25 time, even after a verdict is read, in regards to subject matter

1 jurisdiction. So the argument that this is under -- fails to
2 meet a deadline, I believe, falls short.

3 Inside the meat of the motion that you have before
4 you, in regard to subject matters jurisdiction --

5 THE COURT: I am not arguing -- I don't want to hear
6 argument on the meat yet. I want to hear argument about why I
7 shouldn't strike your pleadings.

8 MR. GRIFFIN: Then I would rest on that, Your Honor,
9 that the subject matter jurisdiction does not fall under a time
10 constraint.

11 THE COURT: Mr. Griffin, who drafted those
12 pleadings? You didn't draft those pleadings.

13 MR. GRIFFIN: Sir?

14 THE COURT: Who drafted those pleadings?

15 MR. GRIFFIN: A friend of mine and myself drafted it
16 together, yes, sir.

17 THE COURT: I want to know his name.

18 MR. GRIFFIN: A friend of mine from Roswell, New
19 Mexico.

20 THE COURT: Mr. Griffin, raise your right hand,
21 please.

22 MR. GRIFFIN: Yes, sir.

23 (Mr. Griffin sworn by the Court.)

24 MR. GRIFFIN: Yes, sir.

25 THE COURT: I am going to ask you again. Who

1 drafted those pleadings?

2 MR. GRIFFIN: A friend of mine in Roswell, New
3 Mexico, whose name is Hiram.

4 THE COURT: Hiram what?

5 MR. GRIFFIN: As God as my witness, I do not know
6 his last name. I only know him by his first name, which his
7 first name is Hiram. And he's not a licensed attorney. He's
8 not a bar-certified attorney. He's a friend of mine who knows
9 the law and has helped me to draft this motion.

10 THE COURT: Okay. You can tell Hiram that I am
11 referring this to disciplinary counsel for investigation and
12 appropriate action.

13 MR. GRIFFIN: Okay.

14 THE COURT: And I'm striking your pleadings.

15 MR. GRIFFIN: Can I ask you under what -- under --
16 why you are striking it, sir?

17 THE COURT: Because a nonlicensed person who is
18 practicing law without a license in New Mexico.

19 MR. GRIFFIN: He's not practicing law, sir. He
20 just --

21 THE COURT: We'll let the disciplinary counsel look
22 at that and decide whether he's practicing law or not.

23 MR. GRIFFIN: Okay. But in response to the time
24 constraint of -- the a subject matter jurisdictional time
25 constraint, what would your response be?

1 THE COURT: You can sit down, sir, if that's the end
2 of your argument.

3 Mr. Sus, do you have anything further?

4 MR. SUS: No, Your Honor.

5 THE COURT: I'm striking the motion to quash and
6 dismiss as well as Defendant's reply, as they were drafted and
7 submitted by a nonlicensed person --

8 MR. GRIFFIN: I object to that, Your Honor.

9 THE COURT: Sir, I'm making my ruling.

10 And they were, I believe, filed in violation of Rule
11 11. So the motion to dismiss pleadings and the -- to quash and
12 dismiss, as well as the Defendant's reply are quashed for
13 purposes of this proceeding.

14 Would you like to make another motion, Mr. Griffin?

15 MR. GRIFFIN: Not at this time, Your Honor. If I
16 may, Your Honor, I would like to -- if I may approach.

17 THE COURT: You may.

18 MR. GRIFFIN: Your Honor, in regards to the matter
19 that's before us today, as you full well know in regard to a
20 civil lawsuit, there must be -- the Plaintiffs must have injury.
21 And in this case right here, the Plaintiffs, two reside in Santa
22 Fe County, and one resides in Los Alamos County. So my position
23 as a County Commissioner in Otero County has no influence or
24 injury to the Plaintiffs that are ascribed in this lawsuit
25 today. That in itself should be grounds for removal because

1 there is no injury to the Plaintiffs.

2 As well as I have already been through the
3 federal system. I have already been through a criminal trial.
4 And in that trial, I was acquitted of anything that was
5 disorderly or disruptive on January 6. The only charge that I
6 was convicted of was a misdemeanor trespass charge.

7 Through this lawsuit today, I feel like I'm reliving
8 this all over again. My actions on January 6 were well inside
9 the bounds of the Constitution, and everything that I did on
10 that day I felt I had full right as a free American to do. The
11 misdemeanor trespass charge, I right now have under appeal in
12 the federal system, because the area in which I crossed was not
13 posted. There was no signs. There was no indicators that that
14 was even off limits, let alone an unauthorized zone.

15 But again, I revert back to the first point that I
16 just made, that the Plaintiffs fail to show injury. My actions
17 as a County Commissioner do not affect anybody that lives
18 outside of my county.

19 In regards to removal from office, I have already
20 been through a recall process in Otero County. The petitions
21 were made, the move was made, and the recall failed by 28
22 percent. They could only get 28 percent of the people of my
23 district to sign a recall petition.

24 So now -- so now we sit in a civil courtroom with
25 the Plaintiffs with a stacked deck, with counsel and attorneys

1 and with a sole motive to subvert the will of the people of
2 Otero County. I believe it's very unfair to the people of Otero
3 County, and a total disgrace to the system that we're in today.
4 I believe the people of Otero County spoke whenever that recall
5 failed, and I believe that the Plaintiffs have no injury in this
6 case, Your Honor.

7 And for that, I move for you to dismiss this lawsuit
8 today.

9 THE COURT: Thank you, sir.

10 Mr. Sus?

11 MR. SUS: Yes, Your Honor.

12 Mr. Griffin just argued the motion to dismiss that
13 Your Honor struck from the docket. If you'd like a response to
14 any of the points he made, I would be happy to provide those.

15 THE COURT: Go ahead, Mr. Sus, and make your points.

16 MR. SUS: In the first instance, the law of New
17 Mexico is that standing is not a jurisdictional doctrine and
18 does not go to the subject matter jurisdiction. Instead, it is
19 defined by statute. The *Quo Warranto* statute expressly
20 authorizes any resident in the State of New Mexico -- private
21 resident in the State of New Mexico to bring a *Quo Warranto*
22 against a county official.

23 The Plaintiff need not file a complaint --

24 THE COURT REPORTER: You're going to have to step
25 closer to the microphone. I cannot hear you very well.

1 MR. SUS: Sure.

2 The private Plaintiff need not file a complaint with
3 the Attorney General or the District Attorney. The Plaintiff
4 may file suit directly. And there is no requirement in the *Quo*
5 *Warranto* statute that the Plaintiff reside in the same county as
6 the county official -- where the county official sits, as
7 Commissioner Griffin claims. So that is simply not a part of
8 the statute, nor does it deprive the Court of subject matter
9 jurisdiction.

10 With respect to Commissioner Griffin's argument that
11 his federal criminal prosecution has any bearing on this State
12 law *Quo Warranto* proceeding, Your Honor, we would refer you to
13 the relevant portions of our pre-trial brief which address and
14 refute that defense.

15 And the short answer to that defense is that Section
16 3 of the Fourteenth Amendment is not a criminal penalty or
17 punishment, nor have either the Courts or Congress historically
18 ever required a prior criminal conviction for an individual to
19 be disqualified under Section 3 of the Fourteenth Amendment.
20 That is because Section 3 is a qualification for office. It is
21 not a criminal punishment. And so it's based on the simple
22 proposition that one who takes an oath to support the
23 Constitution and then violates that oath by engaging in an
24 insurrection against the Constitution is disqualified from
25 office.

1 So Mr. Griffin's federal criminal prosecution, while
2 it did concern his conduct on January 6, 2021, is not
3 dispositive or does not have any legal bearing on whether he
4 engaged in an insurrection in connection with the January 6
5 attack on the Capitol.

6 THE COURT: Thank you, sir.

7 MR. SUS: Any other points you'd like?

8 THE COURT: No.

9 Mr. Griffin?

10 MR. GRIFFIN: Your Honor, for the record, I would
11 just like to point to the fact that, as the Plaintiffs point to
12 an insurrection, that there has not been one individual to date
13 charged with insurrection. The only people that call January 6
14 an insurrection is those who want to undermine or destroy an
15 opposing political party.

16 On my account of January 6, it was not an
17 insurrection. But again, as you just heard the Plaintiffs speak
18 -- the opposing counsel speak. He did not mention one area in
19 which the Plaintiffs have suffered any injury to my actions of a
20 County Commissioner. Because that's what this case is about.
21 We are already getting into January 6, but this -- this lawsuit
22 is about removing a duly-elected County Commissioner from office
23 through the civil courts.

24 You're -- by allowing this case to move forward, you
25 are going to set very dangerous precedence moving forward into

1 the future if you allow this to move forward. This is going to
2 set a precedence whenever -- if somebody that has enough money
3 and has enough legal -- legal horsepower behind them and they
4 don't like somebody in an opposing county's politics to put them
5 in the very seat that I'm sat in today. And I feel it's very
6 unfair. I feel it's very un-American. And if it proceeds
7 forward, it will be a pure and clear example of peering.

8 THE COURT: Mr. Griffin, I do have questions for
9 you.

10 MR. GRIFFIN: Yes, sir.

11 THE COURT: There was a mandamus action that was
12 filed against the Otero County Commission in the Supreme Court
13 in June of this year for their refusal to certify election
14 results.

15 MR. GRIFFIN: That's correct.

16 THE COURT: And that affected the entire state. So
17 it's not a local -- you are not just local in what you do.

18 MR. GRIFFIN: Sure. And if I may address that
19 decision as you bring it forward, Your Honor.

20 THE COURT: Yes, sir.

21 MR. GRIFFIN: Whenever we voted to not certify, we
22 had questions about the elections. And those questions that we
23 had about the election -- the primary election were proven to be
24 factual through a recount in a District 2 race. If I may, the
25 vote tally that we were forced to certify changed after the

1 recount.

2 So the Commission Board was correct in their refusal
3 to certify that vote because that vote was not the legitimate
4 nor legal vote. At that time, there was three votes that were
5 legally cast --

6 THE COURT: Mr. Griffin, I'm not asking about the
7 vote. What I'm focusing on is your argument that you are a
8 local official and these Plaintiffs are not in your county.

9 MR. GRIFFIN: Yes, Your Honor.

10 THE COURT: But this mandamus action was because
11 your actions, whether they were right or wrong, affected the
12 entire state of New Mexico.

13 MR. GRIFFIN: You know, and that might be a valid
14 argument, but it's a shame it's not coming from counsel, but now
15 it's coming from the bench.

16 THE COURT: I'm asking you --

17 MR. GRIFFIN: I know, but you are arguing the
18 counsels' case for them.

19 THE COURT: I am asking you to respond to it because
20 it's an issue that is in my mind.

21 MR. GRIFFIN: I believe that the oath that I hold in
22 my office is held to my constituents. I have reservations about
23 the legality of the election and, therefore, I voted no on the
24 certification. And come to find out, I was right in my vote.

25 THE COURT: I'm not asking about the vote. I'm not

1 asking about whether you were right or whether you were wrong.
2 I'm focusing on your point that these Plaintiffs were not
3 injured by your actions as Otero County County Commissioner. I
4 have that issue that I need you to address.

5 MR. GRIFFIN: And I will address that, Your Honor,
6 because my actions of that vote had no injury to anybody else in
7 the state. Why is that? Because we were forced through the New
8 Mexico Supreme Court to certify that vote. That vote was
9 certified. So there was no injury. Your argument falls short,
10 Your Honor.

11 THE COURT: I'm not arguing, Mr. Griffin. I'm
12 asking you about -- I want your input on that point.

13 MR. GRIFFIN: And my input is given. My vote -- we
14 certified that vote, so there was no injury. There was no
15 injury to anybody else in the state nor outside of the county.
16 And if we would have not certified that vote, the Secretary of
17 State and the Supreme Court already had an ad hoc program in
18 place to certify the vote. They were going to override the
19 Otero County Commission and certify the vote anyways.

20 I believe you are probably aware of that, Your Honor.

21 So by us -- we did not have the option in that. So
22 therefore, we did not affect anybody else outside of the county.
23 If we would have continued to vote no on the certification, then
24 we still wouldn't have affected anybody. And anybody wouldn't
25 have had injury because the vote was still going to be

1 certified.

2 THE COURT: Thank you, Mr. Griffin.

3 MR. GRIFFIN: Thank you.

4 THE COURT: Gentlemen, thank you for your
5 presentations on this point.

6 I don't believe the motion is well taken, so I'm
7 denying the motion.

8 Mr. Sus, would you prepare the appropriate form of
9 order?

10 MR. SUS: Yes, Your Honor.

11 THE COURT: Any other preliminary items that we need
12 to take up before review of the merits?

13 MR. GOLDBERG: Just one housekeeping matter, Your
14 Honor. Joseph Goldberg.

15 The status conference we held on Friday we raised
16 the issue --

17 THE COURT: You need to speak into the --

18 MR. GOLDBERG: I'm sorry, Your Honor.

19 THE COURT REPORTER: Can you come to the podium,
20 please.

21 MR. GOLDBERG: I will.

22 Just a housekeeping matter, Your Honor. In the
23 status conference on Friday, we addressed the issue that
24 Mr. Griffin has not objected to any of our exhibits. And Your
25 Honor indicated that the -- Your Honor's orders -- both

1 pre-trial orders which said that any exhibits that were not
2 objected to were deemed admitted. I just want the record to
3 reflect that all of our exhibits are admitted into evidence.

4 THE COURT: As I said on Friday, my orders stand.
5 Any exhibit that was not objected to in a timely fashion in
6 accordance with those orders are admitted.

7 MR. GRIFFIN: Your Honor, if I may.

8 THE COURT: Yes, sir.

9 MR. GRIFFIN: I would like to ask Your Honor and the
10 Court to strike anything that the Defendants [sic] present that
11 has to do with the deposition that I took or that Matt Struck
12 took. And I ask the Court this because they were supposed to
13 send me a copy of the deposition so I could sign the deposition
14 and verify the deposition. I was never sent a copy of the
15 deposition, nor was Matt Struck, who was deposed as well. We
16 were never sent a copy of the deposition to verify and sign and
17 send back. And the attorneys told us that we would receive that
18 to look over, to agree with, to sign and to send back.

19 THE COURT: With respect to the depositions,
20 Mr. Griffin, your deposition and Mr. Struck's deposition are two
21 different things. Yours are a party opponent. Your statements
22 in any deposition are outside of a deposition are statements of
23 a party opponent. That may be admitted.

24 Mr. Struck's, I don't know what exhibit Mr. Struck
25 may be referred to in. So is it an exhibit that was previously

1 tendered to you and you didn't object?

2 MR. GRIFFIN: No. It was the full six-hour
3 deposition that I took with the attorneys. After the
4 deposition, Mr. Goldberg told me he was going to send me the
5 deposition so I could verify it, sign it and send it back.

6 THE COURT: Okay. Let me hear from Mr. Goldberg.

7 MR. GOLDBERG: It's actually irrelevant, Your Honor,
8 but I will respond to what Mr. Griffin said. I didn't tell him
9 I would send him the deposition. I told him he would get a copy
10 of the deposition. As usual, that always comes from the court
11 reporter. I cannot say one way or the other what the court
12 reporter's office did.

13 I will call to the Court's attention that there were
14 numerous documents that our office sent to Mr. Griffin that he
15 claims he never received. And I can't say one way or the other
16 whether he received it.

17 THE COURT: Mr. Goldberg, when was this deposition
18 taken?

19 MR. GOLDBERG: Mr. Griffin's deposition was taken, I
20 think, on the 21st of July. And Mr. Struck's deposition was
21 taken later because of some -- I'll stay with Mr. Griffin's
22 deposition. Mr. Griffin's deposition is listed as an exhibit.
23 He didn't object to it. Mr. Struck's deposition was listed as
24 an exhibit, and Mr. Griffin didn't object to it.

25 THE COURT: Mr. Griffin, your reply?

1 MR. GRIFFIN: Maybe I overlooked it and -- if I
2 didn't object to it at the right time, then I would accept that
3 that burden falls on me. But I don't see how any burden can't
4 fall on the Plaintiffs as well for not sending that -- I can
5 tell that you don't -- it's okay. It's fine.

6 I'd just like to say that by this moving forward and
7 by me being removed is going to subvert the will of the people
8 of Otero County, and I feel it's extremely unjust.

9 THE COURT: Any other housekeeping matters from
10 anyone?

11 MR. GOLDBERG: Your Honor, I'm going to violate the
12 cardinal principle of speaking after the Court has ruled, but I
13 do want to call to the Court's attention that upon
14 certification --

15 THE COURT: If you are going to argue something, you
16 have to come to the podium.

17 MR. GOLDBERG: I just want to read into the record.
18 On the certification of the court reporter --

19 THE COURT: I've already ruled on that, sir.

20 MR. GOLDBERG: Okay. Great.

21 THE COURT: Thank you.

22 MR. GOLDBERG: We have nothing else, Your Honor.

23 THE COURT: Thank you.

24 With respect to all exhibits that were not objected
25 to, they are admitted.

1 Do you have an opening statement, Mr. Goldberg?

2 MR. GOLDBERG: I do, Your Honor.

3 Good morning, Your Honor.

4 THE COURT: Good morning.

5 MR. GOLDBERG: This trial focuses on the shocking
6 and violent events that occurred at the United States Capitol in
7 Washington, D.C., on January 6, 2021, as well as the events that
8 led up to January 6 and the Defendant Couy Griffin's
9 participation in those events.

10 The Court, as fact finder, must determine on the
11 basis of this trial: One, is Mr. Griffin, as an Otero County
12 Commissioner, subject to the requirements of Section 3 of the
13 Fourteenth Amendment as a state officer who exercises executive
14 or judicial powers and took an oath of office to support the
15 United States Constitution? That's the first question Your
16 Honor must decide.

17 The second question that Your Honor must decide is:
18 Were the events at the United States Capitol on January 6, and
19 the events leading up to that day, an insurrection within the
20 meaning of Section 3?

21 And the third question that Your Honor must decide
22 as the fact finder here is: Did Mr. Griffin, the Defendant,
23 participate, that is, engage, in that insurrection?

24 Since what happened on January 6, 2021 at the United
25 States Capitol building is the centerpiece of this trial. I

1 want to start out by trying to orient the Court physically to
2 the key locations using some enlarged photographs that are to
3 scale. I have four of them, but I have two of them up.

4 THE COURT: Mr. Goldberg, you are going to have to
5 take the microphone with you.

6 (Note: Discussion held off the record.)

7 THE COURT: I'm going to start with this board on
8 the left that has the National Mall. This is like a -- an
9 aerial photograph, a Google photograph, although the source is
10 listed on it. In the upper left-hand corner is the White House,
11 Your Honor. You can see it up there. And we have surrounded
12 it. And then the Stop the Steal rally, which the president
13 spoke on the morning -- early afternoon of January 6, is
14 encircled there. And that's just south -- yeah, south of the
15 White House.

16 The Capitol is on the far right over here. The
17 crowd from the Stop the Steal rally migrated from the rally over
18 there either along the streets or along the mall, which is that
19 green grassy area over there. And the videos strongly establish
20 that Mr. Griffin went along the Mall towards the U.S. Capitol.

21 In order to get at the Capitol, where eventually he
22 was, and we'll describe that -- in order to get to the Capitol,
23 he had to breach three separate barriers, each one of which was
24 erected to prohibit people from the public, including
25 Mr. Griffin, from being on the Capitol grounds or on the

1 Capitol.

2 I want to point out the first barrier. First, let's
3 show where the Peace Monument is. The Peace Monument will show
4 up in some of the videos and show up in some of the testimony.
5 And Mr. Griffin breached the first barrier right around the
6 Peace Monument. It's right over there. And from there, you get
7 from the public area into the Capitol grounds, the grassy
8 grounds there. There is a -- as part of the barrier, there is a
9 physical wall, a stone wall. Your Honor will see a video where
10 Mr. Griffin is, in fact, using a motor scooter seat as a step to
11 help him climb over that wall to get into -- illegally to get
12 into an area where he is not supposed to be.

13 Then the second barrier that he breaches is where
14 Mr. Dodd is pointing out, which is from the grassy area to where
15 you have a stone or a closet area, which is also a barrier. You
16 will see a video where Mr. Griffin, again, illegally breaches
17 that barrier, which is another fence, by using a bike rack like
18 a ladder to climb up the bike rack to get over the fence barrier
19 to get into -- close to the Capitol. That's the second breach.

20 The third breach is -- as you approach the Capitol
21 -- Chris, why don't you move over to the second.

22 As you approach the Capitol, there was a third
23 barrier that was not part of the Capitol grounds but was erected
24 by the Capitol authorities when they built the inaugural stages.

25 Chris, why don't you just circle around what the

1 inaugural stuff is there.

2 As part of that, they built a third barrier. And
3 you'll see a video of Mr. Griffin breaching that barrier, again,
4 erected to keep people out.

5 You heard Mr. Griffin at his deposition and you
6 heard Mr. Griffin right here in the courtroom just ten minutes
7 ago saying, well, I never knew I was going somewhere where I
8 wasn't supposed to go. That didn't fly in the Federal Court in
9 Washington where he was, in fact, convicted of trespass. But
10 you will see videos where Mr. Griffin states -- not what he
11 states here in the courtroom, but what he states immediately
12 after, the next day after January 6, and very shortly after
13 that, he says, we all knew that we were going where we were not
14 supposed to go. And he, in fact, is happy about that.

15 With reference to the second board, we put a legend
16 on there to give you a sense of the scale here, Your Honor.
17 That looks like a four or five-inch carries 100 feet. That
18 shows you where the inaugural platform is. As part of the
19 inaugural platform -- that inaugural platform, Your Honor, is
20 also on what's called the West Terrace of the Capitol. The
21 facade that we're seeing here is looking west. It's called the
22 West Facade. And you'll hear some testimony about that. The
23 platform is built on the West Terrace. It actually covers the
24 West Terrace and it elevates the West Terrace a little bit. And
25 it also -- it also juts out about a foot or a foot and a half

1 beyond the actual terrace itself.

2 Mr. Griffin, after he breaches the third barrier,
3 then improperly goes up some steps that takes were there that
4 takes you from the to the plaza level to the terrace level, and
5 he gets up on the platform, when is then on top of the West
6 Terrace just where Mr. Dodd's pointer is, which is right towards
7 the middle of the balustrade. And it is, as you'll hear in
8 videos and perhaps in Mr. Griffin's testimony, just about where
9 President Biden is slated to take the oath of office. That's
10 where he gets onto what I'm going to call the terrace, but is
11 actually technically the inaugural platform. And that's where
12 he stays.

13 The time here is about -- just around 2:00, 2:30 or
14 so -- no, I'm saying that wrong. It's about 2:50 or so. He
15 stays there for more than an hour and a half, and he largely
16 doesn't move from there. He's enjoying a prominent physical
17 position, but he's also taking a prominent role in the
18 activities there. He leads -- he leads the mob in a prayer. He
19 -- he speaks to them using a bullhorn. You'll see videos of him
20 physically egging and cheering them on.

21 Certain activities occur in what is called the
22 tunnel. The tunnel is the entrance from the west plaza to the
23 crypt of the Capitol, which is down one level from the main
24 floor of the Capitol. That tunnel is right where Mr. Dodd is
25 pointing. It's almost directly behind where Mr. Griffin spends

1 his hour and a half or hour and three-quarters on the terrace
2 level. And it's about -- I'd say about 35 or 40 feet behind
3 him. You will see videos of him turning around and looking at
4 what goes on there.

5 And again, you heard Mr. Griffin say he -- and he
6 says in his deposition and he says here, he didn't see violence,
7 this was not violence. You'll see -- you'll hear testimony that
8 there was a mob of people that pushed, forced themselves into
9 that tunnel. You'll hear testimony from a District of Columbia
10 police officer who was injured in that tunnel.

11 And as the people are going into the tunnel, they
12 are yelling "Heave-ho. Heave-ho." And Mr. Griffin states that
13 -- not here and not in his deposition, but immediately after
14 January 6, that he joined in with them saying "Heave-ho.
15 Heave-ho."

16 That gives you a sense physically of what you see in
17 the Capitol.

18 We have two other -- we just enlarged the first
19 photograph. It gives you a greater sense of that grassy area
20 and where they are. This photograph over here on the right
21 gives you a much clearer picture of the platform, the inaugural
22 platform. It gives a clearer picture of the crypt that's right
23 behind where Mr. Griffin was standing. And it gives you a sense
24 of a distance between Mr. Griffin and activities that involve a
25 lot of violence.

1 Let's turn to the testimony and witnesses. We will
2 be presenting five live witnesses and two witnesses, law
3 enforcement officials, who testified at Defendant Griffin's
4 criminal trial in Washington this last winter by their previous
5 trial testimony. I will describe first the live witnesses'
6 testimony.

7 The first witness, Your Honor, will be Defendant
8 Griffin. And we will show through Mr. Griffin's testimony that
9 his office satisfies the -- being subject to the requirements of
10 Section 3 of the Fourteenth Amendment. We will show that he
11 took an oath of office to support the United States
12 Constitution, that he was elected to the office of Otero County
13 Commissioner, and that that office satisfies the requirements of
14 Section 3. We will show that the office that he holds was
15 created by the State of New Mexico as a state office that
16 carries out executive functions and thereby satisfies Section 3.

17 We will show through his testimony that Mr. Griffin
18 traveled to Washington, D.C. with at least one, and perhaps two,
19 weapons. And over several days, he made various stops on his
20 way to Washington and gave various speeches. During those
21 speeches, Mr. Griffin encouraged people to go to Washington,
22 D.C. on January 6 in order to stop the peaceful transfer of
23 presidential power from Donald Trump to Joseph Biden, imploring
24 inflammatory language, such as references to war, "winning at
25 all costs" and "hunting down the rhinos."

1 Mr. Griffin was at the Capitol building on January
2 6, ultimately taking a prominent position on the balustrade of
3 the inaugural platform. And to get there, as I indicated, he
4 had to breach barriers, not once, twice, but three times.

5 After the insurrection on January 6, Mr. Griffin
6 touted the force and violence that had occurred at the Capitol
7 that he had witnessed, and continued to foment people to resist
8 the transfer of presidential power by suggesting further
9 violence at the Capitol on January 20th. And threatened that --
10 and these are his words, Your Honor -- "blood will run from the
11 Capitol" if the transition of power went forward.

12 The second witness is a photo journalist by the name
13 of Nate Gowdy. Mr. Gowdy is a freelance photo journalist who
14 was in Washington, D.C. to cover the events of January 6 for the
15 Rolling Stone Magazine. Mr. Gowdy was in close proximity to
16 Mr. Griffin all afternoon on January 6 at the Capitol and took
17 hundreds of photographs of Mr. Griffin holding at the Capitol
18 building.

19 Mr. Gowdy will provide a firsthand account from a
20 perspective from within the mob. He will testify that the mob
21 was extremely violent towards the police and others. And that
22 as a member of the press, Mr. Gowdy himself has threatened and
23 attacked. Mr. Gowdy will explain that based on his
24 observations, the mob was there to stop the certification of Joe
25 Biden's election and that the mob used violence, force and

1 intimidation to achieve that goal.

2 Mr. Gowdy will further testify to Mr. Griffin's
3 participation in the events on the West Terrace and that
4 Mr. Griffin reveled in the events and encouraged the mob's
5 actions. He will testify to seeing Mr. Griffin take up the
6 prominent leadership position within the mob, and that due to
7 this, Mr. Griffin is present in approximately 5 percent of the
8 photographs that Mr. Gowdy took that day. Mr. Gowdy will
9 testify that Mr. Griffin's presence on the platform was from
10 approximately 3:00 p.m. to 4:30 p.m. on that day.

11 This is a good time to stop. I want to give Your
12 Honor some sense of what it looked like on that West Facade of
13 the White House -- of the Capitol. The Capitol, of course, has
14 surveillance cameras all over the Capitol, inside and out. And
15 it had a surveillance camera right above the West Terrace. And
16 we have -- we took that surveillance video for five hours, from
17 about 12:30 in the afternoon until 5:30 in the afternoon. Since
18 Your Honor didn't give us five hours to play it, we have
19 compressed that whole video in sort of like a time lapse
20 fast-forward that you see sometimes on the weather forecast on
21 the TV. And I asked Joe Simons to do that. This is the five
22 hours compressed to 17 seconds, Your Honor.

23 Please play it, Joe.

24 (Note: The video is played to the Court.)

25 MR. GOLDBERG: So what you saw there in 17 seconds

1 was the five hours before anybody breached the Capitol grounds
2 before the mob went there. You saw the breach and then you saw
3 where the police, after many hours of terrible fighting and
4 injury, finally gained control of the mob and pushed them back
5 off of the Capitol grounds.

6 The next witness will be Officer Dan Hodges.
7 Officer Hodges is a police officer of the DC Metropolitan Police
8 Department. He was called to defend the Capitol on January 6,
9 to reinforce the Capitol police. Officer Hodges will testify
10 that the mob was brutally violent and attacked him and his
11 fellow officers with a variety of weapons and inflicting serious
12 physical and emotional injuries.

13 Officer Hodges will testify, and his body camera
14 footage will show, that many in the mob came prepared for
15 violence, adorned in full tactical gear. He will testify that
16 the mob made it clear through their words, their chants, their
17 flags, their banners, that they came to the Capitol with a
18 purpose of stopping the certification of the 2020 election.

19 Mr. Hodges will testify that the sheer size of the
20 mob was the most important factor in their success in seizing
21 the Capitol grounds and breaching the Capitol. The thousands in
22 the mob were overwhelmed and outnumbered to law enforcement.
23 Because of the mob size and the chaotic atmosphere created, law
24 enforcement officers were impeded by both violent and nonviolent
25 members of the mob. Officers could not tell in the moment which

1 individuals were going to be violent and, therefore, every
2 trespasser was a threat.

3 The next two witnesses are expert witnesses, Your
4 Honor. The first expert witness will be Mark Graber. He is a
5 professor of law, constitutional law, at the University of
6 Maryland Law School. He is one of the country's leading expert
7 in the history of Section 3 of the Fourteenth Amendment.
8 Professor Graber has performed a thorough investigation into the
9 historical antecedents and context of Section 3, its historical
10 applications and the relevant events of January 6.

11 On the basis of his investigation, Professor Graber
12 reports that among knowledgeable people in the 19th Century when
13 Section 3 was drafted and adopted, there was a strong consensus
14 that Section 3 should be broadly construed and applied, that its
15 requirement should be applicable and were applied to county
16 offices like Defendant Griffin's office here. And that a group
17 of persons who sought to accomplish a common purpose to resist
18 or frustrate the application of lawful authority with force,
19 violence or intimidation by numbers, constituted an
20 insurrection, as understood by those people at the time.

21 Professor Graber offers opinions that, one, the
22 events of January 6 would be viewed by knowledgeable persons as
23 an insurrection. And two, that Mr. Griffin's activities would
24 be viewed as engaging in that insurrection.

25 The last live witness, Your Honor, would be

1 Dr. Rachel Kleinfeld. Dr. Kleinfeld is a senior fellow at the
2 Carnegie Endowment for the Humanities, and is one of the world's
3 leading experts on democracy and violence globally. And she is
4 the foremost expert on U.S. political violence. She will
5 present her findings and expert opinions on the basis of her
6 thorough investigation of the events of January 6 and the
7 lead-up to those events.

8 Dr. Kleinfeld will testify that to prevent the
9 transfer of the presidential power, Mr. Griffin helped to
10 mobilize the credible use of force at three stages at the state
11 level on January 6, the day of the events, and on inauguration
12 day. Mr. Griffin consistently normalized violence before and
13 after the election until the inauguration. Mr. Griffin
14 mobilized people to come to Washington on January 6, using
15 language to normalize and incite violence. Mr. Griffin
16 continued to incite and normalize violence on January 6 while
17 that was happening. And on the basis of her experience and
18 investigation here, Dr. Kleinfeld offers her opinions that the
19 purpose of the insurrection, including the January 6 attack on
20 the Capitol, was to prevent the transfer of presidential power
21 through violence or intimidation, and that Mr. Griffin's actions
22 and comments suggest that he shared that objective.

23 Violence predictably occurred at the Capitol on
24 January 6 and Mr. Griffin likely knew there was a substantial
25 threat of violence, and helped to create that threat.

1 Mr. Griffin was an insurrectionist and not a protestor. Over
2 several weeks, he participated in multifaceted efforts to
3 prevent this transfer of presidential power. He engaged in the
4 insurrection, including on January 6 as a mobilizer and inciter
5 of the mob and as a normalizer of violence.

6 The last two witnesses which we are providing the
7 transcripts for to Your Honor are Inspector John Erickson and
8 Inspector Lanelle Hawa. U.S. Capitol Police Inspector John
9 Erickson is a 32-year veteran of the force. He will testify
10 that the area that Mr. Griffin entered on the Capitol grounds on
11 January 6 were restricted to the public. Inspector Erickson
12 will testify that due to the mob that gathered on the Capitol
13 grounds that day, it took several hours for the Capitol police
14 to clear the Lower West Terrace, and did that only with the
15 assistance of the National Guard.

16 Inspector Erickson will testify that the mass of
17 people occupying the Capitol grounds included those trying to
18 breach through the Lower West Terrace door that led to the
19 significant obstruction of the Capitol ground. Inspector
20 Erickson's testimony also confirms that the mob's presence on
21 the Capitol grounds at the time that Mr. Griffin was there
22 coincided with the evacuation of Vice President Pence from the
23 ceremonial office in carrying out the official functions that he
24 was designated to carry out for a period of time.

25 THE COURT: You have three minutes left,

1 Mr. Goldberg, three minutes left of the 30.

2 MR. GOLDBERG: Your Honor, great.

3 Then Inspector -- the last witness is Inspector
4 Lanelle Hawa. She is a 23-year veteran of the Secret Service.
5 She is going to testify to the -- access to the Capitol grounds
6 were restricted because of Vice President Pence's participation
7 in the election certification.

8 On the afternoon of January, 6, she received alerts
9 of security breaches indicating that there were groups of
10 individuals that had broken through. The breaches continued and
11 there was a large group of individuals who were breaking
12 through. These breaches resulted in the certification of the
13 electoral college vote being stopped because -- and because of
14 the breaches, the House of Representatives and the Senate were
15 suspended for a period of time. The Capitol went into lockdown.
16 Vice President Pence was evacuated from his office and taken to
17 a secure location and did not return to the Capitol for several
18 hours. Inspector Hawa will testify that individuals breached
19 security barriers at the Capitol after 2:25 p.m. and the
20 evacuation of the past vice president.

21 If Mr. Griffin's testimony to this Court is at all
22 similar to his deposition testimony, Mr. Griffin will try to
23 downplay his conduct when portraying the events at the Capitol
24 on January 6 as peaceful. The videos at the time contradict
25 that. The videos at the time show that he admits he was aware

1 that he was gaining access to the Capitol grounds illegally,
2 that he did, in fact, witness violence, that he compares to his
3 exaggerated characterization of Black Lives Matter and
4 alternatively blames on Antifa and characterizes the events on
5 January 6 -- these are Mr. Griffin's own words -- as a whirlwind
6 and a shot across the mouth.

7 And finally, as you will see in the videos, he
8 threatens further violence predicting that, quote, "Blood will
9 run," closed quote. That's what this trial is about, Your
10 Honor.

11 Thank you very much.

12 THE COURT: Mr. Griffin?

13 MR. GRIFFIN: Yes, Your Honor.

14 I'd probably first like to start out by saying I'm
15 not prepared as I should be today, and I believe the reason for
16 that is because I had too much confidence in the law being
17 followed. As you read the dispositive motion in regards to
18 subject matter jurisdiction, it was very clear in that motion as
19 far as exactly the subject matter jurisdiction and what's going
20 on here today. I didn't think that we would be here. But for
21 you to make a judgment on that motion just by saying you didn't
22 write this, I think is very disrespectful.

23 I put a lot of time and I drove to Roswell every
24 weekend, taking time away from my family and not wanting to do
25 it. I -- I -- it was something that I forced myself to do. But

1 I had a friend that is knowledgeable as well, who now you know
2 his name, Hiram, help me through that and helped me to write
3 that. But for you to throw that motion out on a judgment that
4 comes from the bench that you didn't write this whenever this
5 motion is full of the law and anybody out there who is following
6 this case, following these proceedings, I would encourage them
7 to read through that dispositive motion because I wouldn't be
8 having to stand before you here today if that motion would have
9 been considered and respected.

10 And then for Your Honor to demand the name of a
11 friend of mine so he can be singled out and attacked is evidence
12 in itself of how un-American our system is today. And it's very
13 disappointing to see one of our highest courts in New Mexico act
14 in such a way.

15 But thank God for the opportunity to appeal, because
16 we can only trust and have faith that if it goes to that point,
17 that the next Court will be more or possibly, I should say, less
18 judgmental towards me and what my abilities are in regards to
19 being able to look at the law that's available to every
20 American.

21 In regards to my actions on January 6, everything
22 that Mr. Goldberg just said a minute ago trying to portray me as
23 an insurrectionist is false. It's not why I went to Washington,
24 D.C. on January the 6th. Why I went to Washington, D.C. on
25 January 6th is to protest what we now know was illegitimate

1 elections. The evidence is in that our elections were tampered
2 with. And I went to exercise my constitutional right to
3 peacefully protest what we now know were fraudulent elections.

4 I didn't even plan on going down to the Capitol on
5 January the 6th. I traveled to Washington, D.C. to attend the
6 rally at the Ellipse. And that morning at the rally at the
7 Ellipse, I was contacted by a friend, a dear brother in Christ
8 by the name of Gary Chapman. And Gary encouraged me to pray
9 with people on that day. I thought I was going to be able to
10 have the opportunity from the main stage to possibly be able to
11 speak. And I was going to encourage that crowd to take a knee,
12 not in protest of the government, not in unified solidarity,
13 but I was going to ask them to take a knee to declare that Jesus
14 Christ is King and Lord.

15 I wasn't afforded that opportunity during the
16 Ellipse. And I texted Gary that morning telling him that I
17 didn't have the opportunity to pray from the main stage. And
18 Gary said, "Couy, you don't need the main stage, just find a
19 group of people and a bullhorn." That's what sent me on my walk
20 down to the Capitol.

21 When I got down to the Capitol as we are going to
22 see, and as I'm sure Mr. Goldberg will show, the area in which I
23 crossed over into the restricted zone. There was a man that was
24 standing up on the wall, a black man, and he was preaching the
25 gospel and he was hitting on every cylinder and he was preaching

1 in the purest form. And as he looked at me and as he engaged
2 me, there was a bicycle that was set up against the wall and
3 there was people sitting all along the wall. They were already
4 all in the grass all behind the wall. I had no idea that that
5 wall was any type of a restricted zone.

6 But as that black man looked at me, he told me,
7 "Step up on the bike." Whenever he said, "Step up on the bike,"
8 Matt Struck, who was with me, thought that he said "step up to
9 the mic." And Matt looked at me and said, "Go, Couy, go, he's
10 calling you. He's calling you." And so I said, "All right."
11 So I pulled my pants up and I stepped up on the bicycle seat. I
12 stepped up on the wall and then I tried to engage the man again
13 to see if I could borrow his microphone -- his bullhorn to pray
14 with the people that were there, but he never looked back at me
15 again and I never did feel like that was the place.

16 And so we just ventured on up toward the Capitol.
17 It was peaceful all around me. There was never any -- and mind
18 you, might I add, whenever I crossed over that wall, it looks
19 the exact same as it does right now today. There was no signage
20 on it that said restricted zone. There was nothing that said no
21 trespassing. There was nothing to indicate to me that that was
22 a place that I couldn't go to.

23 And as we walked on up, and as Mr. Goldberg will
24 show, there was a time where there was one ledge to another
25 ledge, and it looked like a metal step at the time. And I

1 crossed up that step. He says it was a barricade, like I was
2 crashing another barricade. It wasn't that. Then as I got on
3 up, there was a piece of plywood that led to -- that crossed
4 over to another area. And that's another one that Mr. Goldberg
5 will say is another part of the barricade. Whenever at my
6 criminal trial, the Capitol Police officer identified that as a
7 handicap ramp. It's in the transcripts.

8 So I had no intention of breaking the law on that
9 day. If I would have known that I was breaking the law by
10 trespassing or going somewhere that I didn't have full right to
11 go as an American -- we used to call the Capitol the people's
12 house. We used to call the Capitol grounds the people's ground.
13 I thought it still was.

14 As I walked up there, as Mr. Goldberg stated, there
15 was an outside staircase that led up. I walked up the outside
16 staircase, I looked over and I saw a crowd of thousands below
17 me. As I stood there for a minute, I felt a bullhorn tug on the
18 back of my leg and I felt the Lord say this is your place. I
19 took the bullhorn, I turned away from the Capitol building and I
20 told the people that "we've been fighting too much. We need to
21 pray." And I prayed 2 Chronicles, Chapter 7, Versus 14 over our
22 nation.

23 I never did anything that was violent. I didn't
24 feel like I did anything illegal. I left on my own accord. I
25 was never told to leave. I left at my own will. And the only

1 time I smelled or felt the effects of pepper spray or tear gas
2 or whatever was whenever I was leaving. Whenever we went back
3 down that staircase, there was tear -- there was pepper spray or
4 something inside the staircase, and it got me a little bit. But
5 I never -- as God as my witness, I did not know that I had done
6 anything illegal on that day. I thought that we still had a
7 right in this country to peacefully protest and to stand in
8 unity in what I believe, and still do believe, and evidence has
9 proved that our elections of 2020 were fraudulent elections.

10 And I stand on that ground. That's why I get
11 attacked the way I do because my knee hasn't bent to the
12 tyrannical system that is right now in place, in my opinion,
13 which I still believe that I still have a right to an opinion
14 and to free speech and to freedom of expression in our country
15 without being criminally charged for so.

16 But as you are fixing to see through the discovery,
17 over the last three years I have lived an extremely transparent
18 life. I have hidden nothing. I would give anybody access to
19 anything as long as it was meant for good. And -- but by doing
20 that, I had a friend, Matt Struck, who was not hired by Cowboys
21 for Trump, who was not instructed by Cowboys for Trump, who
22 worked on his own accord in his own private capacity as a
23 private individual. And Matt had his camera out all the time.
24 All the time. Many times whenever I didn't even know that he
25 was filming, Matt was filming.

1 Well, through the discovery process, the Plaintiffs
2 acquired over 2,400 videos from Matt Struck. Many were just
3 conversations, random conversations with people that were
4 standing around. They have gleaned through 2,400 videos to grab
5 as many little sound bites and as many little statements as they
6 can. A lot of people call it digging through dirty laundry.
7 Other people like myself call it dumpster diving. But by doing
8 this, they have -- they have tried to find content to fit the
9 narratives that Mr. Goldberg just proposed. And that's the
10 insurrection.

11 Insurrection is something that is a collaborated
12 effort to overthrow the government, to replace the government
13 with another form of government. And that would never be
14 something that I would -- I'm trying to save America, not
15 destroy America. I'm trying to protect America through
16 protecting our electorate, which is compromised.

17 But I would like to ask Your Honor, as well as
18 anybody else, if somebody that is wanting to destroy you could
19 look through every text message you have ever sent, every e-mail
20 that you have ever sent, every statement that you've ever made
21 in possibly a private conversation, what kind of narrative could
22 they build against you? Because that's what's going on today.
23 We live in a different world today. We live in a world of
24 social media and cell phones and e-mails and all the things that
25 the enemy can pick and pick and pick and try to build you into

1 something that you're not.

2 I'm not a violent man. I hate violence. I would
3 never condone any acts of violence. But I do pray to be a
4 righteous man, and I pray to always stand behind our county
5 sheriff and our local governments, which is the first line of
6 defense for we the people. Because right now, we the people are
7 under siege, and our judicial systems have been weaponized. And
8 those that have the courage to speak up and speak out and stand
9 strong are singled out and taken down through slander and
10 through much of what you're going to see today.

11 I'm glad that Special Agent Hawa is a witness today.
12 Because during my trial -- my criminal trial, whenever the front
13 of the Capitol was shown and Special Agent Hawa was shown videos
14 and images of the front of the Capitol that day, a 22-year
15 veteran of the Secret Service, and she was asked to identify
16 where the restricted zone was, she could not even identify where
17 the restricted zone was. She didn't even know where the
18 restricted zone was.

19 How was I or others like me supposed to know? And
20 there is videos of the Capitol Police officer taking down the
21 barricades, waving people in. And if we are going to use videos
22 and statements that have been made that were inciting, why isn't
23 Ray Epps sitting right here today? Why isn't Ray Epps sitting
24 in Washington, D.C. on a criminal trial? Because his actions
25 and his rhetoric directly promoted violence on January 6. Yet,

1 Ray Epps hasn't even been criminally charged.

2 There is a lot of lies that have come out of January
3 6. One being Officer Brian Sicknick, the Capitol Police officer
4 that the government and the media told us were bludgeoned to
5 death by a fire extinguisher. That was the headline. Officer
6 Sicknick was bludgeoned to death with a fire extinguisher, which
7 that was a flat out lie. Officer Sicknick was not bludgeoned to
8 death. He was -- died of a stroke, natural causes. Natural
9 cause is what the coroner's doc said the next day.

10 Rosanne Boyland is another lie. The media and the
11 government told us for months afterwards that Rosanne Boyland
12 died of a drug overdose, which was a flat out lie. She was
13 viciously and savagely beaten by a D.C. Capitol Police officer
14 named Lila Morris. The video evidence shows it. I don't know
15 if Lila Morris was the cause of Rosanne's Boyland's death, but
16 Lila Morris viciously and savagely beat Rosanne Boyland in the
17 West Tunnel. Not a whole lot of people -- maybe have the
18 ignorance maybe or stupidity or possibly the courage to tell you
19 the things that I'm telling you today. But the things that I'm
20 telling you today are fact, are the truth.

21 I had no violent intent on January the 6th.
22 Whenever I left my car that morning and we went to attend the
23 rally, I had remembered that I left -- I had my pocketknife in
24 my pocket because I carry my pocketknife everywhere. And I went
25 and I found a place to hide my pocketknife to later retrieve

1 because I didn't want to have anything on my person that could
2 be translated as having a weapon on you.

3 I know that I -- I pray that I operate off the
4 conviction of God. I pray that I do all things to honor my Lord
5 and Savior Jesus Christ, who many want to deny, many want to
6 disregard. But one thing is a fact, Jesus is King and one day
7 every knee will bow and every tongue will confess that Jesus
8 Christ is Lord. And that's who I trust in today. And that's
9 why I sit there by myself. But trust me, Your Honor, I'm not
10 alone.

11 Thank you.

12 THE COURT: Mr. Griffin, one second, please. Thank
13 you for your presentation.

14 But since you brought Hiram up, what's his telephone
15 number and address?

16 MR. GRIFFIN: I can get it to you.

17 THE COURT: Please do.

18 MR. GRIFFIN: Again, I'd like to say for the record
19 it's -- it's a disgrace that Hiram is even being brought up and
20 singled out in this. Hiram is a friend. He's pro se. He's not
21 licensed. He's just a man that loves the law and he wants the
22 law to be honored and he wants the law to be upheld. And by you
23 disregarding that motion, you disregarded the law, Your Honor.

24 THE COURT: I understand and I accept your argument,
25 but I'm going to take a 15-minute break. And at the end of the

1 break, please have that information for me.

2 MR. GRIFFIN: Absolutely.

3 THE COURT: Ladies and Gentlemen, we're going to
4 take a 15-minute break. We'll be back on the record at 25 till
5 11:00.

6 (Court in recess at 10:23 a.m.)

7 THE COURT: We're back on the record.

8 Mr. Goldberg, your next witness.

9 MR. GOLDBERG: Yes, sir. We call the Defendant
10 Griffin.

11 THE COURT: Mr. Griffin, come to the witness stand,
12 please.

13 Mr. Griffin, I'll remind you that you remain sworn.
14 Have a seat and speak right into that microphone.

15 DIRECT EXAMINATION

16 BY MR. GOLDBERG:

17 Q. Mr. Griffin, will you state your full name, please.

18 A. Couy Dale Griffin.

19 MR. GOLDBERG: Your Honor, I apologize. I have the
20 wrong questions here. I have to go into the other room to get
21 the right ones. I apologize, Your Honor.

22 (Note: Pause in proceedings.)

23 THE COURT: You may proceed.

24 BY MR. GOLDBERG:

25 Q. Before we start on the questions, I want to orient

1 you to what you have in front of you. You have four white
2 binders. Each binder contains some of the trial exhibits.
3 Which trial exhibits are on the binders is stated on the binder
4 and then they're tabbed. Then there is a brown expand-out
5 folder, and that contains your deposition transcript.

6 MR. GOLDBERG: Your Honor, I have a copy of the
7 deposition transcript for Your Honor.

8 THE COURT: Please. Give it to the bailiff, please.

9 MR. GOLDBERG: I'm expecting to bring up for
10 impeachment purposes the pages and lines on the screen also, but
11 I want to make sure you have them and that Mr. Griffin has them.

12 BY MR. GOLDBERG:

13 Q. You are the Defendant in these proceedings, are you
14 not?

15 A. Correct.

16 Q. You are currently a County Commissioner for Otero
17 County?

18 A. That's correct.

19 Q. When is your term up?

20 A. The end of this year.

21 Q. And you don't intend to run again for reelection to
22 the County Commission, do you?

23 A. No, no intention to.

24 Q. And you've stated from time to time that you may be
25 interested in running for sheriff; isn't that correct?

1 A. Possibly.

2 Q. And you're a founder of an organization called
3 Cowboys for Trump; isn't that correct?

4 A. I don't know if I necessarily call it an
5 organization, but I founded a group called Cowboys for Trump.

6 Q. And you founded that organization sometime in 2019,
7 didn't you?

8 A. That's correct.

9 MR. GOLDBERG: Joe, pull up Exhibit -- Plaintiffs'
10 Exhibit 135, please.

11 BY MR. GOLDBERG:

12 Q. I'm showing you what is Plaintiffs' Exhibit 135, a
13 filing for the organization Cowboys for Trump. Go ahead and
14 take a look at that.

15 A. I see it.

16 Q. That is a registration of Cowboys for Trump with the
17 Secretary of State in 2019; is that not correct?

18 A. That's correct. I opened that account so -- I
19 formed that so I could open a bank account to deposit any
20 supporting checks.

21 Q. And your name is on the exhibit, is it not, down
22 towards the bottom?

23 A. No, I'm not seeing it. No. It says my sister, Kay
24 Griffin. Oh, there's -- as manager.

25 Q. And that's your sister?

1 A. No, that's me. I'm listed as manager.

2 Q. You're listed there as manager?

3 A. I'm listed as manager.

4 Q. And you caused Exhibit 135 to be filed with the
5 Secretary of State, correct? You arranged it? You authorized
6 it?

7 A. No, I can't say that I did. What do you mean, did I
8 authorize it? Did I --

9 Q. You instructed people to fill out this form and file
10 it with the Secretary of State; isn't that true, sir?

11 A. I don't -- I don't know if -- I can't remember if I
12 did or not.

13 Q. Is capital C numeral 4 capital T a shorthand that
14 you use for Cowboys for Trump?

15 A. Yeah. C4T, that's correct. If you go back to the
16 document as well --

17 MR. GOLDBERG: Bring it back up again, Joe, please.

18 A. Go down to where my name was, that address right
19 there. I don't know where that address is or where it came from
20 or who came up with it.

21 BY MR. GOLDBERG:

22 Q. Is that your sister's address in Santa Fe?

23 A. No.

24 Q. It's not?

25 A. Uh-huh.

1 Q. Do you know where the Barnett Law Firm got that
2 address from?

3 A. No.

4 Q. The Barnett Law Firm has represented you from time
5 to time, isn't that true? Even in these proceedings; isn't that
6 true?

7 A. Yeah. But this document was filed before -- I would
8 imagine this document was filed before I had any dealings with
9 the Barnett Law Firm.

10 Q. I want to make sure I understand. Is it your
11 testimony here that you have no understanding as to how this
12 document identifying you as the manager of Cowboys for Trump
13 that you just testified to you found -- founded, how that got
14 created and filed with the Secretary of State?

15 A. No. I'm just saying that I don't know where that
16 address is or what that -- I just don't know that address.
17 That's what I'm saying.

18 Q. You've used Cowboys for Trump as a platform to
19 support President Trump; is that correct?

20 A. That's what it was for. I don't know if I would
21 necessarily say to support Donald Trump, but I formed it more to
22 support the president's policies, in particular border security.

23 Q. And you've used social media, have you not,
24 Mr. Griffin, to send out messages and tweets that the election
25 in 2020 was fraudulent and stolen from President Trump?

1 A. I've used social media to express my opinion, just
2 like any other American does.

3 Q. Have you seen Plaintiffs' Exhibit 80 before?

4 A. I can't -- I don't remember it. I don't remember
5 tweeting it, but I believe it's true.

6 Q. Is the handle at Couy Griffin at Cowboy Couy a
7 handle that you've used on social media?

8 A. That is a handle that I've used, but I've also had
9 fake Facebook profiles used against me and fake Twitter profiles
10 used against me. And something like this can be very easily
11 duplicated by somebody with elementary computer skills.

12 Q. I want to make sure --

13 A. So it would be very circumstantial. But I agree
14 with the statement.

15 Q. Why don't you read the statement into the record.

16 A. "The big lie is the Joe Biden presidency," period.

17 Q. That's a reflection that you think the election was
18 fraudulent --

19 A. Was stolen.

20 Q. Let me finish my question. And was stolen by
21 Mr. Biden from President Trump, correct?

22 A. I just believe that our -- and what has been proven
23 is that our elections were fraudulent.

24 Q. When you said "the big lie is Joe Biden's
25 presidency," you were saying the election was fraudulent,

1 weren't you?

2 A. Well, I guess you could assume that, but I do
3 believe that the 2020 elections were fraudulent and I question
4 Joe Biden's presidency. I feel like that's all protected under
5 my First Amendment. I think that as an American we still can
6 have individual opinions on issues. I don't think that we
7 should be forced to submit to whatever is coming down the pipe.
8 So I feel like -- yeah, that's the way I feel.

9 Q. It would be helpful, Mr. Griffin, if you listen to
10 my questions and answer my questions. I know that Judge Mathew
11 will give you an opportunity at the end of my questions to make
12 whatever statements that you want to make. But I would like you
13 to answer my questions.

14 I want to turn to your office as an Otero County
15 Commissioner. When you first took your seat as Otero County
16 Commissioner you took an oath of office; is that correct?

17 A. And one that I take very seriously.

18 Q. So the answer is yes?

19 A. Absolutely.

20 Q. And in that oath of office you swore that you would
21 support the New Mexico Constitution and the Constitution of the
22 United States of America; is that not correct?

23 A. Absolutely. I was the only elected official at that
24 time that took my oath on a Bible.

25 MR. GOLDBERG: Would you bring up Plaintiffs'

1 Exhibit 1. Plaintiffs' Exhibit 1 is a document filed in the
2 12th Judicial District Court Clerk.

3 BY MR. GOLDBERG:

4 Q. Would you read the oath into the record.

5 A. "I, Couy Griffin, having been elected to serve as
6 County Commissioner for the County of Otero, State of New
7 Mexico, do solemnly swear and affirm that I will support and
8 uphold the Constitution and laws of the State of New Mexico and
9 the Constitution of the United States, and I will faithfully and
10 impartially discharge the duties of the office to which I have
11 been elected to the best of my ability, so help me God."

12 Q. And that is your signature on the line with your
13 name under it, Couy Griffin, down at the bottom?

14 A. Correct.

15 Q. You took that oath and signed Plaintiffs' Exhibit 1
16 at the end of 2018, correct --

17 A. Correct.

18 Q. -- in December of 2018?

19 You agree, don't you, Mr. Griffin, that the Otero
20 County Commission exercises the ultimate executive functions for
21 the Otero County government?

22 A. I'm sorry. Repeat the question.

23 Q. You agree, don't you, that the Otero County
24 Commission exercises the ultimate executive functions for the
25 Otero County government?

1 A. I don't know if I would agree with that. I don't
2 know if we're the sole executive -- I have great respect for our
3 county sheriff, and I believe in regards to the -- if you want
4 to call it the executive -- who is the highest man on the totem
5 pole, I think the county sheriff probably holds as much weight,
6 if not more.

7 Q. You remember your deposition being taken on July 20
8 of this year?

9 A. I do.

10 Q. We were not in the same room. You were down in
11 Otero County somewhere and I was up in Albuquerque. I asked you
12 questions, you gave answers.

13 A. Okay.

14 Q. You remember that?

15 A. Yes.

16 Q. And you remember you did it under oath.

17 MR. GOLDBERG: Would you turn to the deposition at
18 page 53, lines 18 to 23.

19 BY MR. GOLDBERG:

20 Q. I'll tell you the entire deposition transcript is on
21 the counter there. I am going to read to you lines 18 through
22 23.

23 "Question: That has to be on there because, in
24 fact, the County Commission, as the ultimate executive in Otero
25 County in this respect, must approve it, right?"

1 A. In what respect is that?

2 Q. Let me finish reading it --

3 A. Okay.

4 Q. And then I'll ask the question. I'll start again.

5 "Question: That has to be there because, in fact,
6 the County Commission, as the ultimate executive of Otero County
7 in this respect, must approve it, right?"

8 And your answer was "Correct." That's what you say,
9 "Correct."

10 Was that a truthful answer at the time?

11 A. I can't answer that because I don't know the
12 context. You have to go back. What am I even referring to?

13 Q. I'm asking a different question. Are you saying
14 that the transcript is wrong here?

15 A. No. I'm saying that the question that has to be on
16 there because in fact the County, what is that has to be on
17 there and what's the -- and in this respect must approve it,
18 what are we even talking about there? I don't even know the
19 context that we're talking about.

20 Q. Did you answer "correct" at the deposition?

21 A. Apparently it's -- it's recorded as such, but,
22 again, I don't know where the context lies.

23 Q. Let's see. At the Otero County Commission meetings,
24 you've repeatedly voted on agenda items involving executive
25 functions, such as spending and personnel issues; isn't that

1 correct?

2 A. The Commission's duties are in those regards.

3 MR. GOLDBERG: Would you bring up Plaintiffs'
4 Exhibit 5. Plaintiffs' Exhibit, which comes, Your Honor, from
5 the Otero County Commission website.

6 BY MR. GOLDBERG:

7 Q. This is an agenda for a May 12, 2022 meeting of the
8 County Commission; isn't that correct?

9 A. It looks like it, yeah.

10 Q. And you attended that meeting, didn't you?

11 A. Yeah.

12 Q. You've seen that agenda and agendas like that
13 before?

14 A. Sure.

15 Q. Let's turn to the second page of the agenda.

16 At the top of the second page, it talks about CA,
17 consent agenda.

18 Do you see that?

19 A. Yeah.

20 Q. I'd like you to read into the record the fourth item
21 on the consent agenda. Just read it into the record.

22 A. "Request approval of Resolution Number
23 05-2-22\110-44" --

24 THE COURT REPORTER: Wait a minute.

25 BY MR. GOLDBERG:

1 Q. You have to go more slowly. The court reporter is
2 taking down word for word the questions and answers, so please
3 talk more slowly.

4 A. Okay. "Request approval of Resolution Number
5 05-2-22\110-44, budget adjustments submitted by Julianne Hall,"
6 our finance director.

7 Q. Would you read into the record item 10?

8 A. "Request approval to award sealed bid 22-024, snow
9 plow truck for the road shop, award to Robert's Truck Center,
10 Albuquerque, New Mexico, for the amount of \$188,148, submitted
11 by Ginger Herndon, purchasing agent."

12 Q. Would you read into the record consent item 11.

13 A. "Request approval to create a temporary
14 documentation technician at the road department, submitted by
15 Tom Porter, road superintendent."

16 Q. Finally, will you read into the record consent
17 agenda item 12.

18 A. "Request approval to create a part-time fleet
19 maintenance mechanic at the road department. Submitted by Tom
20 Porter, road superintendent."

21 Q. At every meeting of the Otero County Commission, or
22 nearly ever meeting of the Otero County Commission, you have
23 consent agenda items like those?

24 A. We do, but these items are not discussed
25 individually. They're typically on our consent agenda. We get

1 the agenda beforehand. We read through the requests. And these
2 are all moved and passed on at one time without individual --
3 without us discussing each one individually.

4 Q. But they are moved and passed on and you vote on
5 them?

6 A. That's correct.

7 Q. That's because you have to vote on them because
8 that's the way the government gets carried out; is that correct?

9 A. Sure. And we have, like you said, finance
10 directors. We have attorneys. We have our department heads
11 that do the legwork on these agenda items and put together the
12 requests to keep the county functioning.

13 Q. That's right. And that's why you do it, just as you
14 stated, to keep the county functioning?

15 A. Sure.

16 Q. Thank you, Mr. Griffin.

17 It's correct, isn't it, Mr. Griffin, that among your
18 functions as County Commissioner is to sit as a member of the
19 Otero County canvassing board?

20 A. That's right.

21 Q. But one of the duties the county canvassing board
22 has is to certify election results for offices that are
23 exclusively within Otero County; isn't that correct?

24 A. We do so, certify the election.

25 Q. And in June of this year when the Otero County

1 Commission sitting as the canvassing board was asked by the
2 county clerk to certify the results of the primary election for
3 Otero County offices, all three commissioners, including you,
4 refused to certify the results; isn't that correct?

5 A. That's correct, because we had -- we had questions
6 about the way the machines were counting the votes.

7 Q. Again, I'll remind you, if you'll listen to my
8 question and answer my question. Again, I'm confident that
9 Judge Mathew is going to give you an opportunity to make your
10 statements after I finish my questions.

11 Your refusal to certify the election results caused
12 the New Mexico Secretary of State Maggie Toulouse Oliver to go
13 to our State Supreme Court to get an order requiring you and the
14 other two county commissioners to certify the election results?
15 You remember that, don't you?

16 A. Yeah, I remember a board vote. It was a yes, no
17 vote. It was a board decision.

18 Q. I'm going to get there, Mr. Griffin. All I asked
19 you is you remember that you received an order from our State
20 Supreme Court that said you and the other two county
21 commissioners must certify the results of those primary
22 election? Do you remember that?

23 A. I remember that it went against our convictions as
24 county commissioners. Yes, I do remember being forced to vote
25 yes.

1 Q. But you didn't, did you? You voted no.
2 Notwithstanding the mandamus order of our State Supreme Court,
3 the other two commissioners voted yes and you continued to vote
4 no?

5 A. Because I hold an oath to the people and that oath
6 is to make sure our elections were secure. Later on, it was
7 found that those results were not legitimate results. So I was
8 right in holding my vote.

9 Q. You were right. And you think you were right in
10 2020 when you also refused to certify the election results;
11 isn't that correct?

12 A. That's correct.

13 Q. And you were elected in 2018, and you never have
14 publicly challenged those election results?

15 A. No, but I would.

16 Q. Thank you.

17 A. I would. As long as the Dominion voting machines
18 are being used, I would absolutely challenge it.

19 Q. I want to turn to the events leading up to January
20 6, 2021. From immediately after the November 2020 election
21 until today, you have supported President Trump's Stop the Steal
22 movement; isn't that correct?

23 A. I don't know if I would necessarily say I've
24 supported a Stop the Steal movement, but I would say that I have
25 been a strong advocate for transparency in our electorate, and I

1 still believe there is discrepancies.

2 Q. Let's see how you actually said it at the time.

3 MR. GOLDBERG: Joe, will you bring up Plaintiffs'
4 Exhibit 127.

5 BY MR. GOLDBERG:

6 Q. 127 is a tweet from Couy Griffin at Couy Griffin
7 C4T, the 5th of November, 2020. That's again one of your tweet
8 -- Twitter accounts, is it not?

9 A. I don't remember the Couy Griffin C4T.

10 Q. Are you testifying under oath that this is not one
11 of your Twitter accounts?

12 A. I'm not going to say that it's not, but I don't --
13 if it is, it was one that maybe was created that I used maybe
14 for not very long. I don't know. I don't remember Couy Griffin
15 C4T.

16 Q. Read into the record the tweet it itself up to the
17 four flags like we saw in the last tweet that was Exhibit --

18 A. "If Democrats think they can steal our election and
19 patriots are going to quietly go away, you have gravely
20 underestimated the spirit of the American people. We will not
21 be beat."

22 Q. You were saying in that tweet that the election was
23 fraudulent, that it was stolen from President Trump; isn't that
24 true?

25 A. I'm not -- I don't remember -- I don't know if you

1 can -- I don't know if I said that because I don't remember the
2 Couy Griffin -- the C4T. Yeah, I don't know. Not to say that I
3 didn't. I mean, that sounds like something that I could have
4 possibly said, I don't -- but the end of it, we will not be
5 beat, I don't remember -- I don't feel like that was my -- yeah,
6 I don't know. I can't say truthfully under oath that I remember
7 saying -- remember that tweet.

8 Q. You did say that the first sentence that "If
9 Democrats think they can steal our election and the patriots"
10 are going to -- "are quietly going to go away, you have gravely
11 underestimated the spirit of the American people." Three
12 exclamation points.

13 You say that is something that you agree with?

14 A. I can't say that I think that the Democrats stole
15 our elections. I can't say that I -- I can't sit here and say
16 that I think that anybody or anybody in particularly stole our
17 elections. My dad, who is sitting right here with me today,
18 raised me under the context that you never accuse anybody of
19 stealing from you unless you have dang good evidence of it. And
20 so I don't -- I have never accused anybody personally, I don't
21 believe or remember anyways, but I do believe that our elections
22 were fraudulent.

23 MR. GOLDBERG: Bring up Plaintiffs' Exhibit 112,
24 will you, Joe.

25 BY MR. GOLDBERG:

1 Q. So Plaintiffs' Exhibit 127 was November 5, 2020,
2 immediately after the election. Plaintiffs' Exhibit 112 is from
3 May of this year, correct?

4 A. Yes. May 21st.

5 Q. This is a tweet from Couy Griffin@Cowboy Couy. That
6 is another one of your Twitter handles, isn't it, Mr. Griffin?

7 A. That is one of my Twitter handles, but I would once
8 again want to point to you, Mr. Goldberg, that somebody with an
9 elementary level computer skills could regenerate something. I
10 don't remember this tweet. I don't remember saying this, so --

11 Q. Let's read the tweet itself into the record,
12 Mr. Griffin.

13 A. "Lots of miles, lots of hard work, all to be
14 quenched by a stolen election. Very sad."

15 Q. Do you agree with that statement?

16 A. You know, again, on the stolen election, I don't
17 know if the elections were stolen or not. I don't know. I
18 can't sit here and say they were stolen by any individual person
19 or organization. But I do believe that they were manipulated
20 and they're not legitimate.

21 Q. Sometime in late 2021 [sic], you decided to go to
22 Washington, D.C., correct? I'm sorry.

23 Sometime in late 2020, you decided to go to
24 Washington, D.C. on January 6, 2021, correct?

25 A. Correct.

1 Q. You traveled to Washington, D.C. with your friend
2 that you mentioned in your opening statement, Matt Struck?

3 A. That's correct. He went on his own individual
4 person.

5 Q. And one of the reasons why you decided to go to
6 Washington, D.C. on January 6 was because you were responding to
7 President Trump's call to his supporters to go to Washington,
8 D.C.?

9 A. Yeah. He was calling a rally.

10 Q. And you knew that January 6 was the day that
11 Congress was to certify Joseph Biden as president of the United
12 States, correct?

13 A. I think I learned it along the way maybe, but it
14 wasn't -- it wasn't the reason for going. The reason for going
15 is because I was afforded an opportunity to speak on the Women
16 for America First platform, to follow the bus out there. And I
17 try to capitalize on an opportunity to speak, but I wasn't going
18 because of the certification. I didn't -- yeah, I had no
19 intention of even going down to the Capitol on the morning of
20 January the 6th.

21 Q. I am going to ask the question again, Mr. Griffin,
22 so please listen to my question and answer my question.

23 A. Okay.

24 Q. You knew that January 6 was the day that Congress
25 was set to certify Joseph Biden as president, right?

1 A. There was a point, yes. When, exactly, I don't
2 know.

3 Q. Let's see your deposition again.

4 MR. GOLDBERG: Joe, will you bring up page 143,
5 lines 8 through 16.

6 BY MR. GOLDBERG:

7 Q. And I'm going to read them to you, Mr. Griffin.

8 "Question: And when you decided to go to
9 Washington, D.C., you knew that was the day that the election
10 was going to be certified and that's why the rally was there?
11 You didn't know what the mechanics were, what the details of
12 certification were, correct?

13 "Answer: That's correct. I knew that Mike Pence
14 would be the final certification on the election, but, yeah, I
15 didn't know the dynamics of it."

16 Do you remember that question and answer?

17 A. Yeah, I guess I do, but was that --

18 Q. Was that a truthful answer?

19 A. But I didn't know when I knew.

20 Q. The question says "And when you decided to go to
21 Washington, D.C., you knew that was the day that the election
22 was going to be certified?" Is that a truthful answer to that
23 question?

24 A. I'm just trying to process.

25 Q. You can say yes, no or you can't answer,

1 Mr. Griffin.

2 A. It's not clear. I can't answer.

3 Q. Okay. Great. Let's turn -- It's move on.

4 On the way to Washington and while you were in
5 Washington and on your return to New Mexico, by way of
6 California, Mr. Struck took many videos of you, correct?

7 A. A lot of which that I didn't even know he was
8 filming. Yes, sir.

9 Q. As you said in your opening, there were over 2,000,
10 of them, correct?

11 A. Yes, correct, apparently.

12 Q. You and Mr. Struck left for Washington, D.C. on or
13 around January 1st, right?

14 A. I believe so.

15 Q. And you rented a Toyota Camry in El Paso to drive to
16 Washington; isn't that correct?

17 A. Matt rented the car.

18 Q. Matt rented the car. And then in Houston, you and
19 Mr. Struck determined to change cars and you upgraded to a black
20 Cadillac Escalade; isn't that correct?

21 A. It was -- at that time, it was one of the worst
22 snowstorms that South Texas had ever had and we were driving
23 down the interstate with ice that was dragging the back -- the
24 bottom of that little car. And all we wanted to do when we got
25 to the airport was rent an SUV or something bigger to handle the

1 storms that we were driving through. So yes.

2 Q. All the stuff that you had with you in that small
3 Camry was making the back of it drag down?

4 A. No, that's not correct. The reason why is because
5 the Camrys don't sit very high up off the ground. There -- as I
6 said, there was a massive snowstorm at that time, and it was
7 very dangerous to be on the road in something so small.

8 Q. You took firearms with you to Washington, D.C.,
9 didn't you?

10 A. You know, I -- travel -- no. I travel with -- with
11 typically always up until the Court order refused me to bear
12 arms, but I typically always -- always, I have a firearm with
13 me. And the only reason because is because, in my capacity,
14 with as much as I'm in the media and as high controversy as I
15 am, I receive massive amounts of death threats. Like, you
16 couldn't imagine the type of threats that come in to me. In
17 today's world, I don't know what threats are real or what
18 threats are not real, but I have reached out to our county
19 sheriff trying to ask him for protection, as well as the FBI. I
20 have received no protection from any authorities as far as death
21 threats go.

22 So yes, I travel for my own protection, but I always
23 respect and obey all gun laws and travel with firearms and keep
24 the ammunition separated and the firearm separated. I try to
25 respect all gun laws.

1 Q. You referenced a court order in the beginning of
2 that answer, Mr. Griffin. The court order that you mentioned at
3 the beginning of that answer was a court order entered you in
4 your divorce proceedings, correct?

5 A. No, that's false.

6 Q. What court order are you talking about?

7 A. Whenever I was convicted of the misdemeanor trespass
8 charge from Washington, D.C., I was -- one of the restrictions
9 on the -- there's a misdemeanor by Judge Trevor McFadden that I
10 was to relinquish all my firearms, which I very quickly and
11 willfully did, because I respect the law --

12 MR. GOLDBERG: Joe, bring up Plaintiffs' Exhibit
13 155.

14 BY MR. GOLDBERG:

15 Q. This is a video that Mr. Struck took. That's the
16 Camry that you mentioned in your previous testimony, correct?

17 A. That's correct.

18 Q. You're taking stuff out of the trunk to move into
19 the Escalade, correct?

20 A. That's correct.

21 Q. What's that in your hand?

22 A. That's a .357 Ruger Vaccaro.

23 Q. It's got a white handle on it, correct?

24 A. That's correct.

25 MR. GOLDBERG: Go ahead and play the video, please,

1 Joe.

2 (Note: The video is played to the Court.)

3 BY MR. GOLDBERG:

4 Q. Was that the only gun you brought to Washington,
5 D.C. or did you bring another gun to Washington, D.C.?

6 A. No. I had a lever-action rifle as well that I had
7 stored in the back in the trunk.

8 Q. So you had a rifle as well; is that correct?

9 A. That's correct.

10 Q. Did you have any other weapons with you?

11 A. No, sir.

12 MR. GOLDBERG: Would you play Exhibit 154.

13 A. And if you will, Mr. Goldberg -- go ahead.

14 (Note: The video is played to the Court.)

15 BY MR. GOLDBERG:

16 Q. This is a video from Mr. Struck. This is January 2,
17 the night of the Escalade in Houston. Do you see what's on the
18 dashboard there?

19 A. Yes, sir. And --

20 Q. Let me ask the questions. You see that?

21 A. Yes.

22 Q. What is that that's on the dashboard?

23 A. That's a .38.

24 Q. That's a different gun?

25 A. That's correct. And I'm sorry, I forgot. Yeah, I

1 had a .38 with me as well.

2 Q. So you had two guns and a rifle? That's quite an
3 arsenal you brought with you, isn't it?

4 A. Sir?

5 Q. That's quite an arsenal you brought with you?

6 A. I wouldn't call it an arsenal, but I would call it
7 personal protection. I would call it well inside of my Second
8 Amendment right, which is an inalienable right and which the
9 Constitution says should not be infringed upon. I have no
10 violent -- I would never have any violent intent with any
11 firearm. Firearms are only for my protection and they only
12 remain inside my vehicle.

13 Q. On your way to Washington, Mr. Griffin, you and
14 Mr. Struck stopped at a number of cities and towns where you
15 made speeches on that Women for America First platform,
16 correct?

17 A. That's correct.

18 Q. At those speeches, you encouraged the people
19 assembled there, as well as others, to go to Washington on
20 January 6 and to join you and others in Washington?

21 A. Sure, to peacefully protest.

22 MR. GOLDBERG: Would you bring up Plaintiffs'
23 Exhibit 169, please.

24 BY MR. GOLDBERG:

25 Q. Again, 169 is a Struck video.

1 MR. GOLDBERG: Would you play page 5, lines 5
2 through 9.

3 This is, Your Honor, one of the transcribed videos
4 because the sound wasn't great.

5 (Note: The video is played to the Court.)

6 BY MR. GOLDBERG:

7 Q. Then you gave a speech in Little Rock, Arkansas,
8 didn't you?

9 A. Possibly.

10 Q. That again was on the way to Washington, D.C.,
11 correct?

12 A. Yes.

13 MR. GOLDBERG: Would you bring up Exhibit 165,
14 please, Joe. And would you play the fifth minute to 54 seconds
15 to the sixth minute.

16 (Note: The video is played to the Court.)

17 BY MR. GOLDBERG:

18 Q. Then in Woodlands, Texas, you gave a speech there
19 also, correct?

20 A. I did. And as I can see as -- as I can see now, now
21 you've trimmed these videos. The videos that we have already
22 authenticated and approved for you, Mr. Goldberg, now you have
23 even cut these videos down even more where people can't see the
24 context or the message behind what I'm saying. I think it's
25 very strategic of you, but I don't think that it gives a full

1 account of what these videos and speeches say. You are
2 minimizing them even more than you have already have.

3 Q. Again, I didn't ask that, but I will tell you,
4 you're more than -- we have all these videos, all of the
5 exhibits, they're all here. The full videos, every one of them
6 is here. When you get to put on your case, put on any of those
7 videos that you want. Mr. Simons will help you on that.

8 A. But --

9 Q. No, I'm saying that, but I haven't asked you a
10 question. I'm just telling you how this game is played. You
11 get to put on your case and Mr. Simons will help you put on
12 whatever videos you want to put on.

13 A. As we very willingly and trusting you to turn all of
14 our videos over to you, everything you asked for. Whenever you
15 asked us to authenticate the videos, you had longer clips of the
16 videos which put what I said in a more full context. Now you're
17 cutting these videos down even further only to try to portray me
18 out to be something that I'm not. I'm not a violent man. I
19 have no violent intent, and I never would.

20 Q. I'm just showing --

21 THE COURT: Pardon me, gentlemen. This isn't a
22 discussion about the videos. Mr. Goldberg will ask you
23 questions. Mr. Griffin, you will have an opportunity to
24 respond. Then you will have an opportunity to make your
25 statements on cross-examination with respect to whatever the

1 direct examination focuses on.

2 BY MR. GOLDBERG:

3 Q. And one of the reasons you went to Washington, D.C.
4 is because the election in November 2020 was fraudulent; isn't
5 that correct?

6 A. Suspected to be fraudulent.

7 MR. GOLDBERG: Would you pull up 170, please, Joe.

8 BY MR. GOLDBERG:

9 Q. This is a speech that you gave in Birmingham,
10 Alabama.

11 MR. GOLDBERG: Joe, play page 3, lines 4 through 7.

12 (Note: The video is played to the Court.)

13 BY MR. GOLDBERG:

14 Q. That's you talking, isn't it?

15 A. And there is strong evidence without a reasonable
16 doubt that our elections were fraudulent, as we sit right here
17 today.

18 Q. Listen to my question. I didn't ask you that. I
19 asked you: That's you talking on the video?

20 A. That's right.

21 Q. And that was in Birmingham, Alabama on the way to
22 Washington, D.C., correct?

23 A. That's correct.

24 Q. And what you stated there was your true belief at
25 the time, the election was fraudulent?

1 A. Yeah, you know --

2 Q. Without a doubt?

3 A. And we also -- I also am a man, and just like you're
4 a man and just like everybody out there, can have opinions and
5 make statements that may change at different times. It may be
6 that -- you know, I might have just read something, I may have
7 just seen something that sparked the emotion in me to make that
8 statement. But now I'm going to be tried and accused because of
9 a statement that I made that might have been emotionally driven?
10 I believe it's unfair. But that's what this whole case is
11 about.

12 MR. GOLDBERG: Let's bring up another video, Mr.
13 Griffin. Please bring up Plaintiffs' Exhibit 173, please.
14 Let's stop here -- I want you to do, Joe, page 1, lines 4
15 through 14.

16 BY MR. GOLDBERG:

17 Q. Before we do this, this is you talking along the
18 side of the road along with some other Trump supporters,
19 correct?

20 A. Yes.

21 Q. On the way to Washington, D.C., correct?

22 A. For what I know, they're Trump supporters. For --
23 who knows, they might be FBI informants. I don't know if they
24 are Trump supporters or --

25 Q. You don't know that they're FBI informants?

1 A. I know. We didn't know a lot of the FBI informants
2 were on that day. I don't know these people personally. So I
3 can only assume they are Trump supporters because they're
4 wearing sweatshirts, but in today's world, like with Ray Epps,
5 who knows?

6 MR. GOLDBERG: Let's go ahead and play it, Joe,
7 please.

8 (Note: The video is played to the Court.)

9 BY MR. GOLDBERG:

10 Q. You stated you went there to support President --
11 Vice President Trump [sic] because you know the election is
12 fraudulent?

13 A. I stated right there that I support Vice President
14 Mike Pence. And that was the message going up to Washington,
15 D.C., was that we support President -- Vice President Mike
16 Pence, that we support the electorate process. I stated right
17 there that we weren't -- if I had intention to cause an
18 insurrection, my message right there would have been much
19 different. I would have been saying we are going to Washington,
20 D.C. to overturn the government. I wasn't saying that in this
21 video right here. I was saying we're going to Washington, D.C.
22 to support Vice President Mike Pence.

23 Q. "To stop the transfer of power because the election
24 was fraudulent," and you stated "we won't take anything less"?

25 A. Yeah.

1 Q. You said that?

2 A. That was my heart. We won't take anything --

3 Q. That was your heart?

4 A. Yeah, but that doesn't mean that I would -- that I
5 wanted violence if we didn't get our way. That just means when
6 you go into a fight, you expect -- or go into a competition or
7 an election, then you expect to win. You want to win. That's
8 your -- that's what -- that's what winners do, they focus on
9 winning and nothing less. That's all I was saying right here.
10 But there is nowhere in there that I said we're going to
11 Washington, D.C. to cause trouble and to overturn and replace
12 our government, which is what insurrection is.

13 Q. You spoke in Monroe, Louisiana, didn't you, on the
14 way to Washington?

15 A. Possibly. I spoke at a lot of places, I imagine.

16 MR. GOLDBERG: Would you bring up Exhibit 164,
17 please, Joe. We're going to play from minute three, second 56,
18 to minute four, second three.

19 (Note: The video was played to the Court.)

20 BY MR. GOLDBERG:

21 Q. "We're talking about President Trump being
22 confirmed"?

23 A. I'm sorry? Run it back.

24 MR. GOLDBERG: Will you run it again, please, Joe.

25 BY MR. GOLDBERG:

1 Q. You said that in Monroe, Louisiana?

2 A. Yeah. But that just goes to show right there that I
3 didn't even know what I was talking about. I was saying that
4 "We need the states to confirm our president on January" --
5 that's not how the process works. Play it one more time,
6 please, sir.

7 Q. No. I'll ask the questions. You get to make your
8 statements.

9 A. Yeah.

10 Q. All right. You stated, did you not, and you
11 understood, that what the goal was on January 6 was to stop the
12 certification and to send the process back to the states?

13 A. I wanted -- I wanted the law to be followed, and the
14 law that I understood was that Mike Pence could question the
15 election and turn that question back over to the states, yes.
16 That's what I was hoping would happen, just so we could look
17 deeper into our election and make sure there wasn't the type of
18 fraud that was suspected, and now proven.

19 Q. You didn't tell these people -- when you were giving
20 them speeches and encouraging them to go to Washington, D.C.,
21 you didn't tell them that everything was going to be peaceful
22 and quiet, did you?

23 A. Well, I -- restate your question. Did I do --

24 Q. In those speeches that you gave them, you didn't
25 tell them we're going to go to Washington, D.C. and we're going

1 to have a nice, peaceful, quiet, you know, silent, prayerful,
2 wonderful time? You didn't tell them that, did you?

3 A. I may not have told them that, but I didn't tell
4 them to do anything illegal or disruptive or disorderly or --
5 especially in the realm of insurrection, because, as you and I
6 well know, insurrection is a collaborated effort to replace the
7 government with another form of government. And I never did
8 that.

9 Q. In fact, you told the people in almost every one of
10 the stops where you gave speeches, you told them the opposite.
11 You told them that there were no limits on what was necessary to
12 do in order to accomplish the objective of stopping the
13 certification of President Biden; isn't that correct, there were
14 no limits?

15 A. No, you know, by saying there is no limits, no -- by
16 saying there's no limits, I never, ever, one time encouraged any
17 acts of violence or anything disorderly or disruptive.

18 Q. You told the people assembled at these various stops
19 that what was going to happen in Washington was a war? Didn't
20 you use that word over and over again?

21 A. Absolutely. And I still believe that there is a war
22 going on in our country today, but it's a political war. More
23 important than that, it's a spiritual war. It's good and evil
24 right now.

25 MR. GOLDBERG: Let's bring up Plaintiffs' Exhibit

1 162, Joe.

2 BY MR. GOLDBERG:

3 Q. 162 is a speech you gave in Woodlands, Texas.
4 That's right around Houston, correct?

5 A. Yes.

6 MR. GOLDBERG: Play, Joe, from second 42 to minute
7 one, second 44.

8 (Note: The video was played to the Court.)

9 BY MR. GOLDBERG:

10 Q. You said that to the assembled crowd in Woodlands,
11 Texas on your way to Washington, D.C.?

12 A. Yes, sir.

13 Q. These are your words, "A war we cannot lose"? You
14 said that to them?

15 A. Yes, sir. Political war. I meant nothing in the
16 means of violence or physical confrontation. I mean, it's a
17 spiritual battle.

18 Q. Let's see what you said in Little Rock, Arkansas on
19 your way to Washington.

20 MR. GOLDBERG: Can we bring back 165, please, Joe.
21 At second 48 to minute one and seven seconds.

22 (Note: The video was played to the Court.)

23 BY MR. GOLDBERG:

24 Q. "Every card is on the table," you said that to them,
25 correct?

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1 A. That's right, but I didn't mean it in a -- I wasn't
2 promoting violence. I'm talking about, again, politics. I was
3 looking at January 6 the same way you would look at a sports
4 competition. You go in with a mindset -- because I still
5 believe the elections were fraudulent. I don't believe that Joe
6 Biden is the legitimate president of the United States. I'm
7 sorry. And that's my opinion. And I have full right to an
8 opinion without being crucified for it.

9 Q. Hagerstown, Maryland was one of the last places you
10 stopped on your way to Washington, D.C., correct?

11 A. Correct. I think so.

12 MR. GOLDBERG: Joe, would you bring up Plaintiffs'
13 Exhibit 172. Let's play from minute nine, 30th second.

14 (Note: The video to played to the Court.)

15 BY MR. GOLDBERG:

16 Q. You stated that at the time, correct?

17 A. Correct.

18 Q. You believed that when you stated it?

19 A. Yeah, but that can be misinterpreted as well. I
20 meant it -- in no way did I mean violence or overthrowing the
21 government or replacing the government with another form of
22 government. That was not my heart at the time.

23 Q. You were in Atlanta, Georgia on your way to
24 Washington, weren't you?

25 A. I was, I believe.

1 Q. You spoke to a small assembly of people in the
2 parking lot?

3 A. I spoke to a lot people. I don't know.

4 MR. GOLDBERG: Pull up Exhibit -- Plaintiff's
5 Exhibit 67, please, Joe.

6 BY MR. GOLDBERG:

7 Q. This was, again, on your way to Washington, D.C.,
8 right?

9 A. Yeah.

10 MR. GOLDBERG: Would you play page 7, lines 3
11 through 9.

12 We'll come back to this, Joe. We don't need to
13 spend a lot of time on this. I'll write myself a note on here.

14 Can you find page 7, line 20 to page 8, line 2. Or
15 is it still a problem?

16 (Note: Video played to the Court.)

17 BY MR. GOLDBERG:

18 Q. You told assembled people that you were going to
19 "hunt down the rhinos," correct?

20 A. Politically speaking.

21 Q. Politically speaking?

22 A. And I'd say that right now. Those -- as I said,
23 they are sell-outs and are Republican in name only. I believe
24 that we should hunt them down politically. I'm sorry if I speak
25 in a way that some don't, but I didn't mean it literally.

1 MR. GOLDBERG: Can you go to page 8, lines 3 to 9.

2 (Note: The video was played to the Court.)

3 BY MR. GOLDBERG:

4 Q. So you stated to that fellow in Atlanta, Georgia on
5 your way to Washington that you are hoping it will be peaceful,
6 you hope you can win it in the ballot box, but if you didn't win
7 it in the ballot box, you would win it in the streets? You said
8 that to him?

9 A. And I think, if I remember right, the conversation
10 that I was having with that guy was like having a full Communist
11 Chinese takeover of our country. I would say that to put that
12 in context, I would be talking about people that really were
13 trying to overthrow our government and replace our government
14 with a tyrannical government.

15 Q. And if you couldn't stop --

16 THE COURT: Excuse me.

17 BY MR. GOLDBERG:

18 Q. If you couldn't stop them on the ballot box, you
19 would stop them in the streets?

20 A. If it was a Communist takeover, absolutely --

21 MR. GOLDBERG: Let's turn to Plaintiffs' Exhibit
22 164, please. This is in Monroe, Louisiana. Joe, from minute 3
23 seconds 56 to minute 4 seconds 14.

24 (Note: The video was prayed to the Court.)

25 BY MR. GOLDBERG:

1 Q. So you are saying that after you stopped the steal,
2 after you prohibited the transfer of power to Mr. Biden, you
3 wanted to have martial law declared, correct?

4 A. As you can see, I'm not speaking off of a script.
5 I'm speaking off cuff. And I don't really know what I'm
6 speaking even about at the time, talking about the states
7 certifying the election on January the 6th. But in regards to
8 martial law, I feel like that is what we're under today. I feel
9 like whenever you have a society that doesn't have a choice like
10 with these masks, I think that that's a form of martial law.
11 Whenever you have political leaders that say do as I say or
12 else, I believe that's martial law. And I think we are -- I
13 think we're still living under it right now.

14 Q. And you're -- and what you are advocating was
15 martial law to get rid of them, correct?

16 A. No. I would rather get rid of it through
17 constitutional law, which gives us the freedom to be able to
18 live free as Americans and not under the rule of governors or
19 presidents.

20 Q. After all of these stops and all of your speeches,
21 you and Mr. Struck ended up in Washington, D.C. for the events
22 on January 6, correct?

23 A. Correct.

24 Q. What happened on January 6 in Washington, D.C. was a
25 violent mob, wasn't it?

1 A. Not where I was, it wasn't. It was peaceful.
2 Everywhere where I was, all around me in my direct vicinity, was
3 peaceful. I didn't see one violent act inside of my area the
4 whole time I was there. Now, at a distance, I saw chaos at
5 times, but I still stand on the precept that people are
6 responsible for their own individual actions.

7 Q. You saw chaos?

8 A. I saw --

9 Q. Did --

10 A. Well, I thought -- yeah, I did, I saw from a
11 distance.

12 Q. You saw chaos from a distance. But what you were
13 seeing was that mob that you were part of?

14 A. I wasn't a part of that. I never -- if I would have
15 been -- if I would have been a part of it or wanted to be a part
16 of it, I would have gravitated towards it. I wouldn't have kept
17 distance from it. I had no intention on that day of doing
18 anything violent or disruptive, and I did not do anything
19 violent or disruptive, which was proven through my acquittal in
20 the Federal Court system.

21 Q. You and Mr. Struck got to the Capitol grounds around
22 2:00 or so?

23 A. Roughly.

24 Q. When you were there, the mob was very large, wasn't
25 it?

1 A. I don't see how -- in my opinion, a mob is something
2 that's specific. I was in a crowd. I was in a crowd of people,
3 and they weren't chaotic. They weren't violent.

4 Q. There were a large number of those people, weren't
5 there?

6 A. It was a big crowd. Biggest crowd I have ever seen
7 in my life.

8 Q. You, in fact, estimated it at around 2 million
9 people, didn't you?

10 A. I would say.

11 Q. And when you went on the grounds of the Capitol, you
12 went to areas illegally that were restricted to the general
13 public; isn't that correct?

14 A. I went to areas that were not marked, that were not
15 posted and that I had no idea was a restricted or an
16 unauthorized zone.

17 Q. We'll talk about that shortly. You climbed over
18 walls in order to get to the Capitol grounds, didn't you?

19 A. No. I stepped up onto a wall to try to pray with a
20 man that had a bullhorn. And that was the only reason why I
21 went down there, was to pray.

22 MR. GOLDBERG: Bring up Plaintiffs' Exhibit 42,
23 please, Joe, and play 52 seconds to one minute and 24 seconds.

24 (Note: The video was played to the Court.)

25 BY MR. GOLDBERG:

1 Q. That's you there climbing over the wall, isn't it?

2 A. To reach the man with the bullhorn that's right in
3 front of me right there.

4 Q. That's you?

5 A. That's me. And there was people sitting all along
6 the top of the wall. There is no signage. There's nothing
7 posted that it was unauthorized. There was no -- I had no idea
8 that that was an unauthorized zone.

9 Q. We'll get there, Mr. Griffin. I'm just asking this
10 question right now.

11 MR. GOLDBERG: Please go ahead and --

12 A. That's me.

13 MR. GOLDBERG: Let's go ahead and play this.

14 BY MR. GOLDBERG:

15 Q. And now you're on the Capitol grounds, right?

16 A. I didn't know I was anywhere that -- where I
17 shouldn't be, but I was trying to get this man's attention so I
18 could pray with him to the people he was preaching to. That's
19 why I am still there. I had no -- I wasn't trying to get to the
20 Capitol. I was trying to get this man's attention, like I
21 explained earlier, because I was hoping to get an opportunity to
22 pray with people because that's the only reason why I was there.

23 Q. The only reason you were there was to pray?

24 A. That's right.

25 Q. And you climbed over other walls in order to get

1 closer to the Capitol, didn't you?

2 A. No, I didn't climb other walls.

3 Q. The first wall that we just saw you, that's the wall
4 where -- you called it a bicycle, but it's actually a motor
5 scooter. You stepped on the seat of the motor scooter?

6 THE COURT REPORTER: I'm sorry. I didn't hear --

7 BY MR. GOLDBERG:

8 Q. In that last tape that we saw, that first wall that
9 you climbed over, that's the wall that you stepped on the seat
10 of the motor scooter to get on the wall?

11 A. That's where the man told me to step up on the bike,
12 and Matt Struck thought he said step up to the mic. And Matt
13 was telling me, go, go, he's calling you.

14 MR. GOLDBERG: That's, Your Honor, where -- Chris
15 needs to come over here because I don't want to leave the
16 screen. Just point out where that wall was, please, Chris.

17 Your Honor, that's right around the Peace Monument.

18 Thank you, Chris.

19 BY MR. GOLDBERG:

20 Q. You climbed over other walls in order to get to the
21 Capitol, didn't you?

22 A. No, I didn't. I didn't climb over any other walls.

23 MR. GOLDBERG: Would you play Plaintiffs' Exhibit
24 25, Joe, from the 57th second to one minute and 20 seconds.

25 (Note: The video was played to the Court.)

1 BY MR. GOLDBERG:

2 Q. That's you, Mr. Griffin, climbing over that wall,
3 isn't it?

4 A. Walking up a step. Those were steps.

5 Q. Those were steps?

6 A. But I wasn't crawling over a wall. I was going up
7 steps. And it was peaceful all around. There was nobody
8 telling us to leave. There was no signage telling us we
9 couldn't be there. There was no loud speaker telling vacate the
10 area. Nothing of the sort. It was a big peaceful crowd.

11 Q. That's what you -- you said that a number of times
12 now in this court. Let's see what you said the very next day,
13 Mr. Griffin.

14 MR. GOLDBERG: Joe, would you bring up Plaintiffs'
15 Exhibit 37. Let's play it from the third minute and 33rd second
16 to the fourth minute and the 11th second.

17 BY MR. GOLDBERG:

18 Q. This is in Roanoke, Virginia, isn't it?

19 A. That's correct.

20 Q. This is the very next day after the riots and the
21 insurrection in Washington?

22 A. That was the evening after we saw Ashli Babbitt get
23 murdered in the Capitol building, so to put it in a little bit
24 of context.

25 Q. That was violent, wasn't it?

1 A. It sure was. She --

2 Q. You felt terrible about that, didn't you?

3 A. I did feel bad about it.

4 Q. And that happened at that peaceful gathering, didn't
5 it?

6 A. It didn't happen in my area. It happened inside of
7 the Capitol, and I had no idea it had happened until that
8 evening when we got back to the room and I saw the video of an
9 unarmed woman being shot by a D.C. Capitol Police officer.

10 Q. Some might say that's what happens when you engage
11 in an insurrection?

12 A. Did she deserve it? Is that what you're saying?

13 Q. No, she did not. You and I can both agree on one
14 thing. She did not deserve to die.

15 Let's go back to your statements over and over again
16 to this Court that you had no idea that you were trespassing,
17 that you were going somewhere where you shouldn't be. Let's see
18 what you said in Roanoke, Virginia the very next day.

19 MR. GOLDBERG: Please play the tape, Joe.

20 (Note: The video was played to the Court.)

21 BY MR. GOLDBERG:

22 Q. That was you in Roanoke, Virginia, telling the
23 streaming audience that you were talking to that the police were
24 telling you you shouldn't be there and what you said was, of
25 course, the patriots weren't going to pay any attention to them?

1 That was you telling them that, right?

2 A. I was talking about an area of the grass that they
3 had the yellow ribbon up for. And I thought that that was an
4 area that they had cordoned off to preserve the grass for
5 Biden's inauguration. That's a far cry from a restricted or
6 unauthorized zone.

7 Q. And then after Roanoke, you went on your way back to
8 New Mexico -- you went by way of San Diego because you wanted to
9 see the family of this woman who got shot at the insurrection,
10 correct?

11 A. As soon as we found out that Ashli Babbitt had been
12 murdered that evening before, I drove from Washington, D.C. to
13 San Diego, California to pay my respects to Ashli Babbitt's
14 family because I would only hope and pray that if that would
15 have been me on that day, somebody would have done the same with
16 my mother.

17 Q. And when you were there in San Diego, you also
18 talked to a lot of people there and described to them what you
19 were engaged in in Washington, D.C., didn't you?

20 A. I talked to a lot of people along the way.

21 MR. GOLDBERG: Joe, bring up Plaintiffs' Exhibit
22 152, page 1, lines 9 through 21.

23 (Note: The video was played to the Court.)

24 BY MR. GOLDBERG:

25 Q. Were you lying to that fellow when you told him you

1 were there and the police told you you couldn't go there?

2 A. Where did I hear that -- I said the police said that
3 we couldn't be there?

4 Q. Yes.

5 A. Where?

6 MR. GOLDBERG: Play it again.

7 A. The police had never told me --

8 (Note: The video was played again.)

9 BY MR. GOLDBERG:

10 Q. You said that to them, didn't you?

11 A. Yeah, but I didn't say that the police told us that
12 they were -- I just said that -- I guess whenever I was talking
13 I just interpreted it to say hey, but that doesn't -- I didn't
14 mean directly. All I'm doing is describing the events of the
15 day. How does that translate to insurrection? Insurrection is
16 a violent rebellion against the government. All I'm doing is
17 just explaining what was taking place.

18 Q. And you were subsequently convicted of criminal
19 trespass for illegally being in a restricted area on the Capitol
20 grounds; isn't that correct?

21 A. Yes, but that's not saying that I knew that that
22 area was restricted or unauthorized. That's -- you are a man of
23 the law. You know that there is -- you know, just an area that
24 is roped up because they don't want you to walk on the grass and
25 you do is a much different offense than crawling over the fence

1 of the White House and going into a restricted and unauthorized
2 zone. So I don't buy your comparison.

3 MR. GOLDBERG: Would you bring up Plaintiffs'
4 Exhibit 47, please.

5 BY MR. GOLDBERG:

6 Q. You've seen this before. This is the judgment of
7 the United States District Court for the District of Columbia
8 that finds you guilty of Count I of the Information, and that is
9 of trespass, criminal trespass, correct?

10 A. That's correct. And I currently have that
11 conviction under appeal because I feel like Trevor McFadden did
12 not make an evidence-based decision on that.

13 Q. And you and Mr. Struck ultimately ended up on the
14 platform built for the inaugural events that were on top of the
15 West Terrace of the Capitol that afternoon of January 6,
16 correct?

17 A. That's correct. I never saw a sign that said we
18 couldn't be there. I never was told by Capitol Police officers
19 that we couldn't be there. You know, we never were told we
20 needed to leave.

21 Q. That's -- would you point out where -- is this about
22 where you were for that afternoon on January 6?

23 A. Probably. Yeah, I would say.

24 Q. You didn't move much from there? You stayed there
25 most of the time?

1 A. That's right, because I had no intention of doing
2 anything disruptive or causing any chaos. I just wanted to
3 stand peacefully and pray with people and peacefully stand in
4 protest, which I thought that was the people's house and that we
5 could do that.

6 Q. You used those words while you were there, you were
7 yelling "this is the people's house"?

8 A. It is the -- I thought it was the people's house. I
9 didn't know that it belonged to the government and they'd throw
10 you in jail if you stood on their property.

11 Q. And you heard shouts of "Storm the Capitol," didn't
12 you?

13 A. I don't know. There were a lot of different things
14 that were chanted that day. Who knows by who they were started
15 and by -- because we know there were agitators in the crowd.

16 Q. I just asked you, Mr. Griffin, what you heard. I
17 didn't ask you to -- let me ask the questions, Mr. Griffin.

18 You heard the crowd yell "Storm the Capitol," didn't
19 you?

20 A. I don't remember hearing that.

21 MR. GOLDBERG: Joe, would you bring up Plaintiffs'
22 Exhibit 23, page 2, lines 1 through 15.

23 (Note: The video was played again.)

24 BY MR. GOLDBERG:

25 Q. Did you hear that just now?

1 A. I heard it just now, but, you know, that's --

2 Q. That was you on the street?

3 A. This is a prime example of what this trial is about.
4 You are showing videos of me just walking around and somebody
5 saying something and now you're persecuting me because I'm not
6 saying that I remember hearing that.

7 Q. I haven't started persecuting you, Mr. Griffin.

8 THE COURT: Gentlemen. Gentlemen. I think now
9 would be a good time to break for lunch.

10 MR. GOLDBERG: I apologize to the Court.

11 THE COURT: It's happened before, Mr. Goldberg.

12 We'll break for lunch now, and be back at 1:15.

13 For those of you who have joined by Google Meets, I
14 will hang up my connection, otherwise this meeting will time out
15 before the end of the day. So to try to ensure that you have a
16 connection throughout the day, I will be back on the record at
17 1:15 on Google Meets.

18 (Court in recess at 11:57 a.m.)

19 THE COURT: We're back on the record.

20 Mr. Griffin, would you mind coming back to the
21 witness stand, please. Mr. Goldberg.

22 BY MR. GOLDBERG:

23 Q. Before we broke for lunch, Mr. Griffin, we were
24 talking about the violence that you saw in the mob that you were
25 a part of on January 6th at the Capitol in Washington, D.C.

1 My recollection is that you testified that you saw
2 chaos there, but that was far away and you weren't part of it.

3 After you left the Capitol, you went to San Diego
4 and we saw some clips of you talking to folks in the parking
5 lot.

6 MR. GOLDBERG: Joe, would you bring up Plaintiffs'
7 Exhibit 152 and go to page 2, lines 4 through 10.

8 (Note: The video is played to the Court.)

9 BY MR. GOLDBERG:

10 Q. That was you in San Diego making those statements,
11 wasn't it, Mr. Griffin?

12 A. That was me recollecting things that I had seen,
13 just recounting, nothing that I was a part of, as I stated right
14 there.

15 Q. I didn't suggest that you were part of it. You saw
16 it. So you saw, in fact, the windows getting broken out of --
17 the windows that you see at the back of the inaugural terrace,
18 correct?

19 A. I saw a guy that was dressed in Antifa hit a window
20 and I saw him get tackled by a lady that was wearing a red,
21 white and blue scarf. That's what I accounted. I saw him break
22 a window and I saw him immediately get stopped by what looked
23 like a Trump supporter.

24 Q. The window that you saw was right about here, wasn't
25 it?

1 A. No, I can't recollect. I think it was on the other
2 side. I couldn't see. Yeah.

3 Q. And you said you saw people pushing on the police
4 and you saw that at the tunnel that was just crowded with
5 people, pushing in to get to the crypt; is that correct?

6 A. There was a big crowd of people. I could see at
7 different times -- yeah. I mean, anytime whenever you go to a
8 basketball championship game and you have a team that wins the
9 game, you see people that are being disruptive in different
10 areas. That's not a reflection of the crowd, nor of the day.

11 Q. So you're recollecting that what you saw was
12 something like a championship basketball game?

13 A. Of what I've seen on TV, yeah. I've seen
14 championship games where university students turn cars over in
15 the streets and tear down traffic signals. Yeah -- it's --
16 yeah. It's what people do whenever there is large crowds, I
17 guess. I don't know. That's the first time I have physically
18 been present at a place with a crowd of that magnitude.

19 Q. You also spoke to the camera to stream on social
20 media on your way back to New Mexico through San Diego, didn't
21 you?

22 A. Possibly.

23 MR. GOLDBERG: Would you bring up Plaintiffs'
24 Exhibit 153, Joe, at page one, lines 1 through 8.

25 (Note: The video is played to the Court.)

1 BY MR. GOLDBERG:

2 Q. That was you talking, wasn't it, Mr. Griffin?

3 A. Yeah. It sounded like it.

4 Q. You were in the car and you were describing what you
5 participated in that mob at the Capitol in the inaugural
6 terrace?

7 A. Yeah.

8 Q. You were joining in going "Heave-Ho. Heave-Ho"?

9 A. There was different chants at different times. You
10 know, I don't know what exactly I was referring to right there,
11 but yeah.

12 Q. You said to this woman Stefanie -- who is Stefanie,
13 by the way?

14 A. I'm not sure.

15 Q. You said if you were there, you too would have been
16 screaming and hollering and celebrating. Is that how you felt
17 about the events that occurred at the Capitol on January 6,
18 something to scream --

19 A. Whenever you have a protest --

20 THE COURT: Let Mr. Goldberg finish his question.

21 BY MR. GOLDBERG:

22 Q. Is that how you felt that there was a type of
23 activity that would cause you to scream and holler and
24 celebrate?

25 A. You know, whenever you have a protest, you know, you

1 protest in many different ways. Not to condone any acts of
2 violence, not to condone any disruptive or disorderly behavior.
3 But it wasn't something that, you know, I would condone or
4 support.

5 Q. While you were at the Capitol on the grounds and
6 then on the inaugural platform, in addition to that big
7 ten-gallon cowboy hat you were wearing, you were wearing a black
8 coat and a C4T shirt; is that correct?

9 A. That's correct.

10 Q. Were you carrying your guns, any one of the one,
11 two, three guns and rifles with you?

12 A. Absolutely not.

13 Q. You did not?

14 A. Absolutely not.

15 Q. But while you were there on the Capitol grounds, you
16 repeatedly talked to others who were there about whether they
17 had guns, and suggested having guns would be a good idea; isn't
18 that true?

19 A. I think I saw a guy dressed as a toy soldier
20 standing in line in a costume, and I jokingly said where is your
21 gun, in reference to his costume that he was wearing. I'm sure
22 that's the video that you're fixing to reference.

23 Q. Let's get it up there.

24 A. Oh, yeah, let's look at that one.

25 MR. GOLDBERG: Let's put up Plaintiffs' Exhibit 38,

1 page 2, lines 2 through 8.

2 (Note: The video is played to the Court.)

3 BY MR. GOLDBERG:

4 Q. Is it your testimony that you were asking that
5 because he was dressed like a soldier?

6 A. Absolutely. He was dressed like a toy soldier.
7 That's all I was saying was where was the rest of -- I should
8 have said, so I didn't have to suffer this today, I should have
9 just said where is the rest of your costume, but since I used
10 that "gun" word, then I guess I have to pay for it.

11 MR. GOLDBERG: Well, let's look at Plaintiffs'
12 Exhibit 24, Joe, page 3, lines 2 through 14.

13 BY MR. GOLDBERG:

14 Q. This is another person that you're talking to.
15 (Note: The video is played to the Court.)

16 BY MR. GOLDBERG:

17 Q. Was that fellow wearing a toy soldier outfit?

18 A. No, but that right there is direct evidence that we
19 weren't armed because I said we could all be armed, but we
20 could. That means that we weren't.

21 Q. You just testified you weren't wearing a gun?

22 A. We weren't. I wasn't carrying firearms and neither
23 was the people that I was talking to. If they would have been,
24 I would have said I'm glad we have our guns on us.

25 Q. What was your assessment of the events on January

1 6th at the Capitol? Was it a great day for America?

2 A. Currently at the time at the present whenever I made
3 those statements that I just made right there, I didn't know
4 that an unarmed woman named Ashli Babbitt had been shot. I
5 didn't know that Rosanne Boyland had been beaten in the tunnel.
6 I didn't know of the loss of life. I didn't know of the
7 violence that I saw later on TV. So my assessment during the
8 time in which I made many of these statements was that it was a
9 totally peaceful protest.

10 As you can see in the very few videos that you
11 played all around me the whole time was peaceful. So looking
12 back now that I've seen the violence, Ashli Babbitt being shot
13 and killed, no, I can't say that it was a great day. Anytime
14 there is violence against police officers or the loss of life
15 can't go down as a great day.

16 Q. Let's focus right now. I want you to say on that
17 day, not after you have been sued. That afternoon, on January
18 6, while you were still illegally on the inaugural platform, you
19 touted that the insurrection was a great day for America, didn't
20 you?

21 A. An insurrection is whenever you overthrow the
22 government and you replace it with another government. So your
23 question right now or even referring to it as an insurrection is
24 not fair.

25 MR. GOLDBERG: Joe, bring up Plaintiffs' Exhibit 27

1 and play page 2, lines 2 through 17.

2 (Note: The video is played to the Court.)

3 BY MR. GOLDBERG:

4 Q. This is what you're going to get or you're going to
5 get more of it. That was your assessment of what was going on
6 at the Capitol on that day. That was something you said on the
7 Capitol terrace on January 6?

8 A. Referring to peaceful protest. Referring to if we
9 don't have free and fair elections, there will be more peaceful
10 protests. And I still stand on that. There will be. We will
11 continue to peacefully assemble and peacefully protest until we
12 have total transparency in our elections. And right now, we
13 don't have total transparency in our elections because Dominion
14 will not let us inspect the machines that we're forced to use.

15 Q. That's not what you said on January 6. You didn't
16 say what we're doing is peaceful protesting. In fact, you said
17 the opposite. You said what was happening on January 6 was you
18 would do anything; isn't that correct?

19 A. Anything inside the law.

20 Q. That's not what you said, did you?

21 A. Well, I never instigated breaking the law. I never
22 tried to encourage violence. And I have never ever tried to
23 promote an insurrection where we topple the standing government
24 to replace it with another form of government. That's what an
25 insurrection is.

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1 Q. Let's go back to the same video that we watched of
2 you characterizing what was going on and what you were doing on
3 the day on January 6.

4 MR. GOLDBERG: Page 4, lines 16 and 17.

5 BY MR. GOLDBERG:

6 Q. Anything to get our country back. That's what you
7 said?

8 A. Anything that -- I should have been -- I'm sorry
9 that I wasn't more clarifying in my statements. Maybe possibly
10 I should have said up there that I'm not in any way, shape or
11 form, you know, want any kind of an insurrection because here
12 I'm on trial for insurrection today, and it's extremely unfair.

13 Q. The next day, when you were in Roanoke and you again
14 characterize what you were involved in on January 6 at the
15 Capitol, you told people what was happening was a shot across
16 the bottle. Didn't you say that?

17 A. I don't know. Apparently.

18 Q. You said it was unleashing the whirlwinds. Didn't
19 you say that?

20 A. I think that's what Chuck Schumer said as well. I
21 think Chuck Schumer said in regards to --

22 Q. I'm not asking you what Senator Schumer --

23 A. I'm sure you're not.

24 THE COURT: Mr. Griffin, this isn't a conversation.
25 Answer the questions and you'll get a chance to respond on your

1 cross-examination. I hope I don't need to tell you that again.

2 BY MR. GOLDBERG:

3 Q. You said it was a shot across the bottom. You
4 remember that, don't you?

5 A. No, I don't, but apparently I did.

6 Q. Do you remember saying it was unleashing the
7 whirlwinds?

8 A. Okay.

9 Q. Do you remember that?

10 A. No. But I could say that -- I might have. I don't
11 remember physically saying it, no, I'm sorry.

12 Q. That's the answer. I'm just asking you --

13 A. And I'm responding.

14 Q. Do you remember you said to them on January 7 when
15 you were talking to the people that they should rise up? Did
16 you tell them that?

17 A. I don't know. I may have.

18 Q. Did you tell them they should attend another rally
19 at the White House on inauguration day. Not the White House --
20 the Capitol, on inauguration day?

21 A. I'm not sure.

22 Q. Did you tell them if they did that, you would plant
23 the flag? Do you remember saying that?

24 A. I remember saying something to that effect, but I
25 don't remember exactly how I said it.

1 Q. Do you remember saying there was going to be a whole
2 other revolution?

3 A. No.

4 Q. Do you remember predicting that blood would run from
5 the Capitol?

6 A. I remember saying it would be a very sad day, a day
7 nobody would want to see.

8 MR. GOLDBERG: Would you play that, Joe.

9 (Note: The discussion between Mr. Goldberg and Joe on page and
10 line of the next video was inaudible.)

11 (Note: The video was played to the Court.)

12 BY MR. GOLDBERG:

13 Q. That's you talking on January 7, the day after the
14 events at the Capitol, right, Mr. Griffin?

15 A. That's right.

16 MR. GOLDBERG: I have no further questions, Your
17 Honor.

18 THE COURT: Mr. Griffin, this is your opportunity to
19 cross-examine or make a cross-examination statement, but it has
20 to be focused on the direct examination. You don't have to do
21 it and you can wait until it's your time at the conclusion of
22 the Plaintiffs' case.

23 MR. GRIFFIN: I'd just like to say that a lot of
24 statements that I've made can be taken out of context, but yet a
25 lot of the statements that I made were very emotionally driven,

1 as the last one that you just watched there after a day where we
2 saw a lot of injustice. And the injustice continues today.

3 It's not any secret that there was FBI informants
4 that were involved in January 6th. There is agitators like Ray
5 Epps that still have not been charged or brought to justice or
6 have to sit in the seat like I'm sitting today.

7 I want Your Honor and the Court and the public to
8 know that most all of the statements that you've seen have just
9 been recount, a recount, of what I saw on that day. And like I
10 said in the opening, I've tried to live very transparently, to
11 be an open book, to not be afraid to speak and exercise my First
12 Amendment. But never in anything that the defense has tried to
13 bring up against me was there ever anything that showed any kind
14 of a coordinated or collaborated effort with any other person or
15 any other organizations.

16 And in order to truly have an insurrection and to
17 find me guilty of what you're trying to find me guilty of, then
18 those are the very ingredients that you have to have. I had to
19 have a willful intent to overthrow the government, and that's
20 not what was taking place on that day. I was frustrated then,
21 as I am still frustrated today. But just because I'm frustrated
22 and just because I voiced those frustrations and just because I
23 give a verbal account of the things that I've seen and the
24 things that I've seen go on doesn't mean that I am an
25 insurrectionist and doesn't mean that I was trying to overthrow

1 my government.

2 I love my government. I love my country. I want to
3 see our country blessed. You know, I live in a state where I'm
4 all of a sudden the criminal whenever you have organizations
5 like Jeffrey Epstein's Zorro Ranch that never is investigated.
6 The sex crimes that Jeffrey Epstein Zorro Ranch are never even
7 looked at, but yet I'm made out to be the criminal. This is
8 where our frustrations come out today because, again, our
9 judicial system is being weaponized to be used on people like me

10 I'm not saying I'm perfect. That's why I follow
11 Jesus. I know that I say things driven out of emotion at times,
12 like we all do, and maybe some foolish things that I shouldn't
13 say. But I'm human and that's the fallible part of being a
14 human being. But anybody who wants to sit in the place of
15 judgment needs to take a look at their own lives and see if
16 they're righteous enough to cast the first stone. And I dare
17 say there is anybody in this room that can do so.

18 That's all I have to say.

19 THE COURT: Just to clarify, this isn't a criminal
20 proceeding. It's a civil proceeding. So you mentioned criminal
21 conduct before. That's not this trial.

22 Mr. Goldberg, did you have redirect?

23 MR. GOLDBERG: I do not, Your Honor.

24 THE COURT: Sir, you may step down.

25 Your next witness?

1 MR. GOLDBERG: The next witness is Mr. Gowdy, and I
2 will not be examining the witness.

3 THE COURT: Come forward. Raise your right hand.
4 (NOTE: Witness sworn by the Court.)

5 THE COURT: Please have a seat and speak into the
6 microphone.

7 DIRECT EXAMINATION

8 BY MR. DODD:

9 Q. Good afternoon, sir. Could you please state your
10 name for the record.

11 A. Nathaniel Gowdy.

12 Q. Could you spell that for the court reporter.

13 A. N-A-T-H-A-N-I-E-L, G-O-W-D-Y.

14 Q. Where do you live?

15 A. I live in Seattle, Washington.

16 Q. What do you do for a living?

17 A. I'm a photographer.

18 Q. Have your photographs been published anywhere that
19 you may have heard of?

20 A. Yes. In 2016, an image of mine was on the cover of
21 Time Magazine portraying Bernie Sanders. More recently, I have
22 images on Rolling Stone and Mother Jones Magazines.

23 Q. As a professional photographer, have you
24 photographed political events and demonstrations?

25 A. Yes.

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1 Q. How many political events would you estimate you
2 have photographed?

3 A. Since summer of 2015, roughly off the top of my
4 head, 340 events across 25 states.

5 Q. Why do you cover those kinds of events?

6 A. It seems we've entered a really dangerous time
7 politically in this country, and I'm drawn to documenting it.

8 Q. I want to turn to the events of January 6, 2021.
9 Where were you on January 6, 2021?

10 A. I was in Washington, D.C.

11 Q. What were you doing in Washington, D.C. on that day?

12 A. I was there to photograph President Donald Trump's
13 Stop the Steal at the Ellipse.

14 Q. Did you end up photographing the event?

15 A. I did not.

16 Q. What did you end up photographing on January 6,
17 2021?

18 A. The attack on the U.S. Capitol.

19 Q. How many photographs did you take on that day?

20 A. More than 2,800.

21 MR. DODD: I'd like to pull up Plaintiffs' Exhibits
22 208, 210 and 215 through 243. Joe, could you pull them up and
23 go through them slowly so Mr. Gowdy can see them.

24 BY MR. DODD:

25 Q. What are Plaintiffs' Exhibits 208, 210 and 215

1 through 243?

2 A. Those are photographs I took that day.

3 Q. Are those photos of the West Terrace of the Capitol
4 and surrounding area?

5 A. Yes. The inauguration day stage area.

6 Q. Are they true and accurate depictions of the events
7 you observed on the west side of the Capitol building on January
8 6, 2021?

9 A. Yes.

10 Q. You testified that you were in Washington, D.C. to
11 photograph the Trump rally at the Ellipse, but you never made it
12 there. Why did you not make it to the Ellipse?

13 A. I was walking to the Stop the Steal. On my way, I
14 was walking between the Capitol and the Washington monument on
15 the National Mall, I encountered a gang of militiamen that were
16 several hundred strong. And yeah --

17 Q. What kinds of things were those people wearing?

18 A. They were dressed in paramilitary outfits, tactical
19 gear outfits -- excuse me. They were wearing bulletproof
20 helmets, flak jackets, you name it.

21 Q. Did you end up following them?

22 A. I did. I went with them, yes.

23 Q. Why did you choose to follow them?

24 A. I had a decision to make and figured all the rest of
25 the press was at Trump's rally. And he hadn't even spoken yet.

1 This large contingent of militiamen were marching in the
2 opposite direction, and so I figured that was the story to
3 follow.

4 Q. Where did you end up following them to?

5 A. They marched chanting "Fuck Antifa," to the east
6 side of the Capitol where they prayed. Then they posed for
7 group photos with the Capitol dome behind them. Then they
8 marched to food trucks that were lined along Constitution
9 Avenue.

10 Q. Before we get into where they went to the food
11 trucks, I want to ask you: Have you ever photographed Trump
12 supporters before?

13 A. Many times.

14 Q. Was the demeanor of this crowd, this group of
15 paramilitary men, different from how Trump supporters usually
16 are?

17 A. Yes.

18 Q. How so?

19 A. I felt, as a member of the press with cameras, I
20 felt safer than I should have. I work, you know, photographing
21 these types of groups. The leader that day was Ethan Nordean,
22 the one with the bullhorn out in front. I recognized him
23 immediately from Proud Boys rallies in the Seattle area. So I
24 had worked around these people. They are very, very aware of
25 optics. So in my experience, they had sort of a, quote unquote,

1 "don't shoot first ethos" where they would instigate the
2 confrontations they want to have, but not necessarily physically
3 initiate them, especially against members of the press.

4 Q. Now, did you suffer any violence towards you that
5 day?

6 A. Within just about exactly ten minutes, I was lunged
7 at and attacked and I put my arms up and said, "Hey, I'm press,
8 Rolling Stone," and they proceeded to make wisecracks about me,
9 laughed at me, called me fake news, called me Antifa, and then
10 relayed my coordinates with regard to the group. It was scary.

11 Q. Later, were you ever physically assaulted?

12 A. Yes. I was again assaulted when the demonstrators
13 became a mob at the Peace Monument. I was shoved from a three
14 foot balustrade at the base of the stairs because of my cameras,
15 and I -- he pointed at me in the lens of my camera and declared,
16 "Fuck you," shoved me and, luckily, I'm a good faller.

17 Q. The group of paramilitary men had these food trucks.
18 Did they go somewhere, and if so where?

19 A. Yes. They broke for lunch for hot dogs and tacos
20 for roughly 45 minutes. By this time, there were demonstrators
21 from -- there was a steady trickle of people coming from the
22 direction of the Ellipse, and so they were kind of glomming
23 onto the pack. But they got in formation and started chanting
24 again and faces grew serious. Facial expressions grew serious.
25 And the mood took on a darker tone and they marched to the Peace

1 Monument.

2 Q. When you say the Peace Monument, I'm going to try to
3 look with the laser printer here. Is this the traffic circle
4 here with the statue in the middle?

5 A. Yes.

6 Q. Is this here the Peace Monument?

7 A. Yes, it is.

8 Q. How many people were in the group at the Peace
9 Monument?

10 A. I was mesmerized by how many people had followed the
11 militants to the Peace Monument. It was endless. Hundreds --
12 thousands. I mean, as far as I could see.

13 Q. What is the demeanor of the group at the Peace
14 Monument?

15 A. Unruly, aggressive. It was scary. They were
16 chanting -- well, there were a lot of obscenities directed
17 toward President Elect Biden and a lot of chants. "We want
18 Trump." "Whose house? Our house." "1776." "Fight for Trump.
19 "Fuck Antifa." Yeah, it was -- yeah.

20 Q. Based on your observations, why are they angry and
21 yelling and screaming?

22 A. They are angry and yelling about the election of Joe
23 Biden as president.

24 Q. Now, at the Peace Monument, is there a police
25 presence?

1 A. There were -- I saw four or five officers without
2 riot gear behind the waist-high bike rack barrier that they were
3 using as a perimeter around Capitol grounds.

4 Q. Looking at the big board. Are those officers set up
5 right around here blocking this pathway?

6 A. Yes. Right in front of the stairway.

7 Q. Are these the stairs here?

8 A. Yes.

9 Q. So they're here, just in front of the stairs?

10 A. Yeah.

11 Q. What happens with the mob at the Peace Monument?

12 A. They use their numbers to overwhelm and overpower
13 and overrun the peace officers who are patrolling the northwest
14 approach of the Capitol grounds.

15 Q. Did you observe violence?

16 A. I did.

17 Q. What about force, did you observe use of force?

18 A. Yeah.

19 Q. How about intimidating by numbers, did you see that?

20 A. Yeah.

21 MR. DODD: I'd like to look at Plaintiffs' Exhibit
22 215 and 216, please, Joe. If you could pull up 215 first.

23 BY MR. DODD:

24 Q. Mr. Gowdy, Exhibit 215 is a photo you took?

25 A. It is.

1 Q. What do we see in Exhibit 215?

2 A. We see the moment -- these demonstrators exercising
3 their First Amendment rights, the moment the crowd becomes a
4 mob. They're crossing a hard line. They're walking over
5 toppled property of Capitol Police barriers and pass the "area
6 closed" signs.

7 Q. So were there signs indicating that protestors were
8 not to come past a certain point?

9 A. Yes. They were posted all over.

10 MR. DODD: Could we go to 216, please.

11 BY MR. DODD:

12 Q. What do we see in Plaintiffs' Exhibit 216?

13 A. Another still from that moment when the people are
14 crossing the perimeter fencing that has been toppled.

15 Q. I want to take a break and speak about Plaintiffs'
16 Exhibit 20.

17 MR. DODD: Joe, if you could pull that up, but
18 don't play it, please.

19 BY MR. DODD:

20 Q. Mr. Gowdy, prior to your testimony today, did you
21 have an opportunity to review Plaintiffs' Exhibit 20?

22 A. Yes.

23 Q. What is Plaintiffs' Exhibit 20?

24 A. It's a video compilation of the attack on the
25 Capitol, on the Capitol's west side.

1 Q. Just to be clear, did you record the footage
2 contained in Plaintiffs' Exhibit 20?

3 A. No.

4 Q. But you have reviewed it, correct?

5 A. Yes.

6 Q. And were you present when that footage was being
7 reported?

8 A. You can actually -- yes. You can actually see me in
9 the footage throughout here and there.

10 Q. Based on your review of Plaintiffs' Exhibit 20 and
11 your memory of January 6, 2021, is that a true and accurate
12 depiction of events that you observed at the Capitol?

13 A. Yeah.

14 Q. I want to turn back to the events at the Peace
15 Monument.

16 MR. DODD: Let's take a look at Plaintiffs' Exhibit
17 20, from one minute 10 seconds to one minute and 55 seconds.

18 (Note: The video is played to the Court.)

19 BY MR. DODD:

20 Q. Looking at this portion of the video, where is the
21 perimeter barrier that's erected?

22 A. It's been toppled. If it's still there, it's only
23 waist high so you can't see it.

24 Q. Is it in front of this group of people?

25 A. Yes.

1 Q. Mr. Gowdy, do you see this individual at the top of
2 the stairs wearing a red cap?

3 A. I do.

4 Q. Has he passed that barrier at that point?

5 A. Yes, he has breached the barrier.

6 Q. Is this segment of Exhibit 20 an accurate depiction
7 of what you observed at the Peace Monument?

8 A. Yeah, it's -- yes.

9 Q. After breaking through the barrier at the Peace
10 Monument, where does the mob go next?

11 A. They continue advancing toward the inauguration day
12 stage area.

13 Q. Was there another barrier set up towards the
14 inaugural area?

15 A. Yes. At the ground level, there was, yes.

16 Q. What happened at that barrier?

17 A. The same.

18 Q. Did the mob swarm the police and overwhelm them?

19 A. Yes. They attacked peace officers in an effort to
20 get past them, yes.

21 MR. DODD: I'd like to now watch Plaintiffs' Exhibit
22 20, from three minutes and 26 seconds to four minutes and 30
23 seconds. Joe, if you could play that.

24 (Note: The video is played to the Court.)

25 BY MR. DODD:

1 Q. Is that portion of Plaintiffs' Exhibit 20 an
2 accurate depiction of the mob swarming the Capitol Police and
3 pushing past to the inaugural area?

4 A. Yes. People at the front of the battle lines were
5 working together, yes.

6 Q. What kinds of things were people yelling? Did you
7 hear that one man in the black outfit? What was he yelling?

8 A. "Move as one."

9 Q. What did that mean to you?

10 A. To work together, to use their numbers to overrun
11 ill-equipped, understaffed police officers defending the U.S.
12 Capitol.

13 MR. DODD: Now I'd like to turn to Plaintiffs'
14 Exhibit 217.

15 BY MR. DODD:

16 Q. Is Plaintiffs' Exhibit 217 a photograph that you
17 took?

18 A. It is, yeah.

19 Q. What do we see here?

20 A. We see -- I am standing atop a five or so foot
21 retaining wall that encircles the interior of the inauguration
22 staging. And we see the beginnings of once the mob has filled
23 it in and rioters are battling police at the very front.

24 Q. I want to orient the Court to where you are
25 standing. First of all in this photo, we see a structure on the

1 left-hand side of the photo. What is that structure?

2 A. That's a media tower called the Crow's Nest so
3 select cameras get to view the president-elect straight on on
4 January 20.

5 Q. That media tower, that is what we see right there.
6 We see its shadow and it's right there in the center; is that
7 right?

8 A. Yeah.

9 Q. So you are -- are you standing here on the retaining
10 wall?

11 A. Yes.

12 Q. This photograph is taken towards the Capitol?

13 A. To the west front of the Capitol.

14 MR. DODD: I'd like to look at Plaintiffs' Exhibit
15 218.

16 BY MR. DODD:

17 Q. What do we see in Plaintiffs' Exhibit 218?

18 A. A member of the mob spray bear mace toward the
19 officers.

20 Q. When you took this photo, was there violence going
21 on?

22 A. Yes.

23 MR. DODD: I'd like to turn to Plaintiffs' Exhibit
24 219.

25 BY MR. DODD:

1 Q. What do we see in Plaintiffs' Exhibit 219?

2 A. We see police reinforcements behind the barrier. In
3 front of me, members of the mob.

4 Q. Mr. Gowdy, around what time is this portion going
5 on?

6 A. This is roughly -- I'd say this is roughly around
7 1:25, 1:30, you know, over or under.

8 Q. Did the mob eventually overrun this barrier?

9 A. Yeah.

10 Q. Is the mob continuing to yell similar things like
11 you were saying earlier, "We want Trump," "Move as one," that
12 kind of thing?

13 A. "Stop the Steal," lots of obscenities, lots of men
14 hollering, "We need fresh patriots," as others fell back and
15 were compromised, and "hold the line," and things of that
16 nature.

17 MR. DODD: Now I'd like to watch Exhibit 20 from 29
18 minutes and 40 seconds to 33 minutes and 40 seconds.

19 (Note: The video is played to the Court.)

20 BY MR. DODD:

21 Q. Mr. Gowdy, as we're watching this we see puffs of
22 white smoke looking stuff. What is that?

23 A. That is pepper spray or bear mace being sprayed, you
24 know, from police officers and also from members of the mob.

25 Q. Are members of the mob spraying the police officers?

1 A. Yes.

2 Q. Do we see the protestors throwing things at the
3 police during this?

4 A. Yes.

5 (Note: The video is played to the Court.)

6 BY MR. DODD:

7 Q. What were they saying right there?

8 A. That man was saying "He can't stop a million."

9 Q. What did that mean to you?

10 A. That they had the numbers to keep going forward,
11 breach the interior of the Capitol, stop the democratic process,
12 you know, the certification of the presidential election and
13 to -- sorry.

14 Q. Here we see the police up above. What are the
15 police doing at this point?

16 A. Retreating to the high ground.

17 Q. Mr. Gowdy, is this portion of Plaintiffs' Exhibit 20
18 a true and accurate depiction of what you observed as the mob
19 occupied the lower inaugural area?

20 A. It is.

21 Q. Just so the Court is aware of what we're looking at
22 here, in this image that's on the screen right now, we see a
23 balustrade and stairs that go along. Is that this right here?

24 A. Yes.

25 Q. And this area here, this lower section, is this

1 where the mob is currently in this video?

2 A. Yes.

3 Q. On this diagram, that is this area down here,
4 correct?

5 A. Yes.

6 Q. Were the police inviting the mob in?

7 A. Absolutely not.

8 Q. Was the mob's behavior peaceful or violent?

9 A. Violent.

10 Q. What happens after this point?

11 A. They overrun the West Terrace, or otherwise known as
12 where the inaugural platform -- excuse me.

13 Q. And that is this area, the elevated area up here; is
14 that right?

15 A. Yes.

16 Q. And on the overhead view, that's the semicircle
17 here; is that right?

18 A. Yes.

19 Q. After they force their way on to the inaugural
20 platform, what does the mob try to do next?

21 A. Keep going, try to continue to breach the inside of
22 the Capitol.

23 Q. Where do they go to do that?

24 A. To the tunnel, otherwise known as the chute where
25 the president-elect will walk out of on inauguration day.

1 Q. Is that here in the center at this point?

2 A. Yes.

3 Q. I'd like to speak about the defendant, Mr. Griffin.

4 Do you know who Mr. Griffin is?

5 A. Yes.

6 Q. Do you see him in the courtroom today?

7 A. Yes.

8 Q. Could you point him out and identify him by a piece
9 of clothing?

10 A. Yeah. He's right there with the blue mask in front.

11 MR. DODD: Your Honor, I'd ask that the record
12 reflect that Mr. Gowdy has identified the defendant

13 THE COURT: It so reflects.

14 BY MR. DODD:

15 Q. Did you see Mr. Griffin at the Capitol on January 6?

16 A. I did.

17 Q. When did you first see him?

18 A. Around roughly 3:00 p.m. until 4:30 p.m.. To be
19 exact, 4:24 p.m.

20 Q. When you observed him, where was he?

21 A. He was feet from -- he was to the left of that
22 semicircle leaning against the balustrade, just a couple of feet
23 over.

24 Q. Right here? Would that be an accurate location for
25 him?

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1 A. Yes.

2 Q. Was he on the inaugural platform?

3 A. He was.

4 Q. How long did you observe Mr. Griffin for?

5 A. You know, roughly an hour and a half.

6 Q. You may have already said this, but what time did
7 you last observe Mr. Griffin?

8 A. 4:24 p.m.

9 Q. Did you take photographs of Mr. Griffin?

10 A. Yes.

11 Q. How many photographs of Mr. Griffin did you take?

12 A. I counted 136 images.

13 Q. How many total images did you take on that day?

14 A. 2,851.

15 Q. Would it be fair to say Mr. Griffin appeared in 5
16 percent of the photographs you took?

17 A. Yeah.

18 Q. Why is Mr. Griffin in so many of the photographs
19 that you took that day?

20 A. He placed himself in being front and center and
21 ended up being in my wide shots by virtue of having a front row
22 seat and being in the middle of the chaos.

23 Q. You said he put himself "front and center." What do
24 you mean by that exactly?

25 A. He was attempting to insert himself in a leadership

1 role.

2 Q. What was his demeanor on January 6 at the Capitol?

3 A. He appeared to be reveling in everything that was
4 happening, smiling, pumping his fists, laughing, just having a
5 good time.

6 Q. What was he doing within the mob?

7 A. He had a bullhorn and his is the voice that made an
8 impression on me that afternoon as he tried for a very long time
9 to get the mob's attention using the bullhorn. Then he finally
10 did, and he spoke. I don't remember his words, but he led the
11 mob in some sort of pro Trump prayer, and the people around me
12 seemed to be listening. But the whole scene was so chaotic that
13 I can't say that the rest of his audience were paying attention.

14 Q. Was Mr. Griffin's conduct such that it was advancing
15 the goal and purpose of the mob?

16 A. Yes. It was very encouraging, was my impression.

17 Q. Did you observe him do anything that was
18 inconsistent with the mob's actions or objectives?

19 A. No, I didn't.

20 Q. I'd like to look at Plaintiffs' Exhibit 208. What
21 do we see in Plaintiffs' Exhibit 208?

22 A. We see the Defendant taking on a -- excuse me. We
23 see him addressing the mob using a bullhorn.

24 Q. I'd like to look at Plaintiffs' Exhibit 210, please.
25 How about in this photo?

1 A. Same.

2 Q. I'd like to pull up Plaintiffs' Exhibit 54. Don't
3 play it yet, though, Joe. Mr. Gowdy, prior to your testimony
4 did you have an opportunity to review Plaintiffs' Exhibit 54?

5 A. Yes.

6 Q. What is Plaintiffs' Exhibit 54?

7 A. It's security surveillance of the west side of the
8 U.S. Capitol on January 6th.

9 Q. Is it a true and accurate depiction of the events
10 that you saw at the Capitol on January 6th?

11 A. Yes.

12 MR. DODD: I'd like to watch Plaintiffs' Exhibit 54
13 from time stamp 2 hours 57 minutes and 40 seconds to 2 hours 57
14 minutes and 54 seconds.

15 Your Honor, at this point could I approach the
16 witness and hand him a pointer so he can use the pointer.

17 THE COURT: Actually this is an interactive screen,
18 so he can point and draw.

19 (Note: The video is played to the Court.)

20 BY MR. DODD:

21 Q. Mr. Gowdy, could you mark for us the location
22 Mr. Griffin appears in this surveillance footage?

23 THE COURT: You can change the color if you hit
24 menu.

25 A. (Witness complies.) You can see it, right?

1 Q. Would it be helpful to look at Mr. Griffin's
2 zoomed-in position.

3 MR. DODD: Could you play from 2 hours 57 minutes
4 and 54 seconds zoomed in on Mr. Griffin's position, please.
5 Could you pause it there, please.

6 (Note: The video is played to the Court.)

7 BY MR. DODD

8 Q. At this moment, have you seen Mr. Griffin yet?

9 A. No. I didn't see him until he rose from the
10 stairway right there and looked out over the balustrade.

11 Q. Keep watching.

12 (Note: The video is played to the Court.)

13 MR. DODD: Pause it there, please.

14 BY MR. DODD:

15 Q. On your screen, could you circle his location?

16 A. My screen is not on.

17 MR. DODD: Your Honor, why don't I go old school and
18 hand him the pointer. May I approach the witness, Your Honor?

19 THE COURT: You may

20 BY MR. DODD:

21 Q. If you could identify Mr. Griffin on that video?

22 A. (Witness complies.)

23 Q. That dark figure there?

24 A. Yes.

25 Q. What time does Mr. Griffin take his position on the

1 inaugural platform?

2 A. Around 2:57 p.m.

3 MR. DODD: Now I'd like to play Exhibit 54 from 3
4 hours and 5 minutes 16 second to 3 hours 5 five minutes and 31
5 second, zoomed in on Mr. Griffin's position.

6 (Note: The video is played to the Court.)

7 BY MR. DODD:

8 Q. What did we see in that portion of Exhibit 54?

9 A. He's pumping his fists and cheerleading.

10 MR. DODD: Now I'd like to turn to Exhibit 54 at 3
11 hours 58 minutes and 25 seconds to 3 hours 59 minutes and one
12 second. If you could play that.

13 (Note: The video is played to the Court.)

14 BY MR. DODD:

15 Q. What do we see him doing with his hand right there?

16 A. He appears to be pretending to be a conductor to a
17 song.

18 Q. Kind of like waving his hand back and forth?

19 A. Yeah. There was a lot of performative patriotism
20 and prayer in the mob where people would out of nowhere begin
21 the Pledge of Allegiance, the Star Spangled Banner or the Lord's
22 Prayer.

23 Q. What do we see toward the end of that footage?

24 A. The Defendant pumping his fist, facing out toward
25 the mob.

1 Q. The demeanor of Mr. Griffin that is depicted in this
2 surveillance footage, is that consistent with his demeanor the
3 entire time he was on the inaugural platform?

4 A. From my perspective, yes.

5 MR. DODD: I'd like to look at Plaintiffs' Exhibit
6 54 from 4 hours 24 minutes and 10 seconds to 4 hours 23 minutes
7 and 10 seconds. Pause it there.

8 (Note: The video is played to the Court.)

9 BY MR. DODD:

10 Q. Mr. Gowdy, we saw a hazy white kind of move across
11 the screen. Do you know what that was?

12 A. Was that my flash?

13 MR. DODD: Now if you could replay from the
14 beginning.

15 BY MR. DODD:

16 Q. Watch the hazy white kind of move across the crowd
17 in the lower right corner.

18 (Note: The video is played to the Court.)

19 BY MR. DODD:

20 Q. Did you see that?

21 A. I did.

22 Q. Was that tear gas or something of that nature?

23 A. Yes.

24 MR. DODD: Keep playing, please.

25 (Note: The video is played to the Court.)

1 BY MR. DODD:

2 Q. In this portion of Plaintiffs' Exhibit 54, is this
3 when Mr. Griffin leaves the inaugural platform?

4 A. It is.

5 Q. What time does he leave the inaugural platform at?

6 A. 4:24 p.m.

7 MR. DODD: Now I'd like to turn to Plaintiffs'
8 Exhibit 224 through 230. If you could pull those up and move
9 through them slowly so everyone can observe them.

10 (Note: The video is played to the Court.)

11 MR. DODD: If you could go back to that first one,
12 please.

13 BY MR. DODD:

14 Q. Mr. Gowdy, could you circle where Mr. Griffin is in
15 this photograph?

16 A. (Witness complies.)

17 Q. Is that him there in the cowboy hat?

18 A. Yes.

19 Q. What do we see in these photographs?

20 A. We see everyone who is in the inaugural platform who
21 had previously been looking at into the mob with their backs to
22 the mob and facing toward the tunnel, which was the primary
23 entrance inside the Capitol.

24 Q. Is the same true for each of these photos that we
25 looked at?

1 A. Yes.

2 Q. What time is it when Mr. Griffin is looking towards
3 the tunnel?

4 A. I believe 3:45, along with everyone else up there.

5 Q. Did he continue to look at the tunnel until he left
6 the platform?

7 A. Yes.

8 Q. Was there violence at the tunnel at that time?

9 A. Yes.

10 Q. Tell us more about that.

11 A. Well, from this angle, I couldn't see what was
12 happening behind them. I could only assume. So it took me a
13 little while. I was out of it after a long day on my feet, you
14 know, doing my job. So I climbed two stories up the media tower
15 where I could get an eye level view of what was happening on
16 that inaugural platform.

17 Q. Into the tunnel?

18 A. Yes. Yes.

19 Q. What kind of violence did you see going on in the
20 tunnel?

21 A. I saw police shields. I saw a couple of people
22 using their bodies to push in against the officers. And I saw
23 -- it reminded me of medieval fighting. It was barbaric and
24 hand-to-hand combat. Basically I saw them weaponizing anything
25 and everything they could.

1 Q. What do you mean by "weaponizing" everything and
2 anything they could?

3 A. Well, throughout the day you have flag poles that
4 become flag spears. They're hurling things. And yeah, bear
5 mace, baseball bats. You name it. Anything and everything.

6 MR. DODD: I'd like to look at Exhibit 20 from one
7 hour and 30 seconds to one hour and 50 seconds.

8 (Note: The video is played to the Court.)

9 BY MR. DODD:

10 Q. Mr. Gowdy, could you clear your screen. Hit menu to
11 close it.

12 What do we see during this portion of Plaintiffs'
13 Exhibit 20?

14 A. The mob working in tandem to push against the wall
15 of thin blue line of police officers protecting the Capitol.
16 They're chanting "Heave-ho, heave-ho," and moving their bodies
17 in unison.

18 Q. Are there police officers inside the tunnel trying
19 to hold the mob out?

20 A. There are.

21 Q. You say they were chanting "Heave-ho, heave-ho"; is
22 that right?

23 A. Yes.

24 Q. Were the members of the mob coordinating to attempt
25 to force their way into the Capitol?

1 A. They were working together, yes.

2 MR. DODD: Now I'd like to look at Plaintiffs'
3 Exhibit 20 from one hour 16 minutes and five seconds to one hour
4 and 17 minutes.

5 (Note: The video is played to the Court.)

6 BY MR. DODD:

7 Q. Is that a hockey stick that we see in this portion
8 of the video?

9 A. Yes.

10 Q. Is that what you meant by anything and everything
11 being used as a weapon?

12 A. Yes. Anything they could get their hands on.

13 Q. What did we see in this portion of Exhibit 20?

14 A. The mob continuing to use force to break into the
15 Capitol.

16 Q. How long did the battle in the tunnel go on for?

17 A. I couldn't watch. Everyone turned around 3:45, but
18 I didn't have eyes on it until 4:10, until 5:10 when police
19 reinforcements went on the offensive.

20 Q. Did the battle for the tunnel eventually end?

21 A. Yes.

22 Q. How did it eventually end?

23 A. It ended with law enforcement having the numbers to
24 go on the offensive and take back the Capitol.

25 Q. Were they using any kind of weapons and things like

1 that to retake the Capitol?

2 A. Yes. So it was very windy and there is lots of
3 yellow smoke, which was tear gas. So basically, they were using
4 crowd control munitions and less lethal munitions to herd the
5 crowd away.

6 MR. DODD: I'd like to turn to Plaintiffs' Exhibit
7 231 to 233. If you could pull those up and go through them
8 slowly.

9 BY MR. DODD:

10 Q. This cloud that we see here in Plaintiffs' Exhibit
11 236, what is that?

12 A. That's a cloud of tear gas.

13 MR. DODD: Keep going, Joe
14 (Note: The video is played to the Court.)

15 BY MR. DODD:

16 Q. In Plaintiffs' Exhibit 231 through 233, what did we
17 see?

18 A. Lines of police reinforcements, Virginia State
19 Police. And in this one, the National Guard helping in
20 assisting them in recreating a secure border around the Capitol
21 building.

22 Q. Were the police ultimately able to put down the mob
23 and get back control of the Capitol grounds?

24 A. They were.

25 Q. Based on everything that you saw and heard on

1 January 6, 2021, did the members of the mob have a common
2 purpose in attacking the Capitol?

3 A. Yes.

4 Q. Based on your observations, what was that purpose?

5 A. To stop the certification of the presidential
6 election and to intimidate elected representatives to do what
7 they wanted.

8 Q. How did you come to that conclusion?

9 A. I heard it throughout the day. "Stop the Steal."
10 "Fuck Joe Biden." "Hang Mike Pence." "1776," which is a
11 rallying cry to overthrow government.

12 Q. Did the mob use force in their effort to stop the
13 certification of the Joe Biden certification?

14 A. Yes.

15 Q. Did the mob use force to stop the certification of
16 Joe Biden's election?

17 A. Yes.

18 Q. Did the mob use numbers to stop the certification of
19 Joe Biden's election?

20 A. Yes.

21 Q. You testified that you took many photos of the
22 attack on the Capitol, correct?

23 A. I did.

24 Q. Have you done anything noteworthy with those photos?

25 A. I've curated and self-published a book of my images

1 from that day.

2 Q. Is this that book?

3 A. It is.

4 Q. What did you title that book?

5 A. "Insurrection."

6 Q. Why did you title it that?

7 A. Because that's what happened on January 6. It was
8 an insurrection.

9 MR. DODD: I have no further questions. Thank you,
10 Your Honor.

11 THE COURT: Mr. Griffin?

12 MR. GRIFFIN: Yeah.

13 CROSS-EXAMINATION

14 BY MR. GRIFFIN:

15 Q. I'd like to start out -- if you're from Seattle, you
16 must be an expert witness on violent mobs and protests, as we've
17 seen Seattle, Washington be thrown in the center of some of the
18 most violent mobs throughout the last few years.

19 MR. GRIFFIN: I guess I'd probably like to start out
20 by seeing if I could have a video pulled up that was played a
21 minute ago. It's not video Number 20. It was the one before it
22 where the man was standing at the top of the stairs right before
23 the breach of the barriers. I'd like to point out possibly one
24 thing that maybe was missed. If you could pull that video up.
25 It was the one with the guy with the red cap on. Yes, sir. If

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1 you could roll it back to the first of it and go ahead and play
2 it.

3 (Note: The video was played to the Court.)

4 BY MR. GRIFFIN

5 Q. If you can see the Capitol Police officers at the
6 top were abandoning their position. But what I'd like to notice
7 is --

8 MR. GRIFFIN: You can stop it.

9 BY MS. GRIFFIN:

10 Q. Whenever this crowd that was unarmed was coming in
11 loud but the Capitol Police officers, they turned their backs to
12 the crowd and they left.

13 MR. GRIFFIN: It's unfortunate that I'm not more
14 prepared today, Your Honor, because we can see in many videos
15 where Capitol Police officers took down barriers.

16 They took down barriers and they motioned for the
17 protestors to come in. One thing I'd like to also note for the
18 record is that the front door of the Capitol is equipped with a
19 20,000 pound magnetic lock prison grade door, the same kind that
20 you have in prisons. That door cannot be breached. That door
21 can only be opened from a secure place inside of the Capitol.
22 That's a question and a part of this investigation that has
23 never been looked into. That's a question that's never been
24 asked.

25 BY MR. GRIFFIN:

1 Q. But I'd like to start off with, Mr. Gowdy, by
2 asking -- I'm sorry.

3 A. My name is Gowdy. With a G, like "howdy."

4 Q. Mr. Gowdy, I'd like to ask you, do you know any of
5 the Plaintiffs in this case?

6 A. I do not.

7 Q. You don't know any of the Plaintiffs that have filed
8 this lawsuit or anybody that's involved with them?

9 A. No.

10 Q. You have never met them?

11 A. I just answered that no.

12 Q. I thought I might have seen you in a photograph with
13 one, but okay.

14 I'd also like to ask you if -- you say that you
15 spent so much time focused on me during that day, but I'd like
16 to ask, did you know anything about me before January 6?

17 A. I did.

18 Q. So you knew who I was before January 6?

19 A. Yeah. You were that dude who has the Cowboys for
20 Trump group and is very outspoken and open.

21 Q. That's right. What would be your political opinion
22 of me?

23 A. How do you mean?

24 Q. I mean, you say that I'm the dude that has the
25 Cowboys for Trump thing, that's very outspoken. If you know

1 that I'm outspoken and you know that I'm on a platform, then you
2 probably have an opinion -- a political opinion of myself.

3 A. What I've perceived is that you're very pro Trump
4 leading up to the insurrection, and that's about the gist of it.

5 Q. Would you say that you like that position or would
6 you say you don't like that position?

7 A. It is what it is.

8 Q. That's not the answer to my question. My question
9 is, would you like my political position or would you not like
10 my political position?

11 A. I don't know.

12 Q. You don't know? It's a yes or no question.

13 A. As far as liking your position, I just document
14 people at these rallies and demonstrations. You know, it's not
15 whether I like it or not. I go to them and take pictures and
16 see what I see.

17 Q. But it's important as far as why you focused on me
18 on that day. Do you agree -- would you call yourself a
19 conservative or would you call yourself a progressive?

20 A. If you're asking my political leniency, I would call
21 myself a progressive.

22 Q. A progressive. So you would say you're on the other
23 side of the aisle from my political position?

24 A. I would not align myself with you.

25 Q. But you would go as far as to say that I was a part

1 of the mob on that day, correct?

2 A. You were front and center, and that's why you are in
3 so many of my photos.

4 Q. That's not the answer to my question. My question
5 is, would you say I was a part of the mob on that day?

6 A. Yes.

7 Q. Why would you say that I was a part of the mob on
8 that day?

9 A. You were the most outspoken person I saw on the West
10 Terrace that afternoon.

11 Q. So it's because I was outspoken that I was a part of
12 the mob or is it because of my physical presence or why -- what
13 would give you the assumption to say I was a part of the mob?

14 A. I would say everyone there who was chanting "Stop
15 the Steal" and there to -- to -- who had breached the perimeter.
16 I would call everyone there, besides the members of the press,
17 part of the mob.

18 Q. So there would be qualifications? You would have to
19 have certain actions? You would have to be a certain type of a
20 person in order to be included in what you say is a mob?

21 A. Everyone who crossed that hard line, that perimeter
22 line, became part of the mob.

23 Q. What about yourself on that day?

24 A. I was doing my job, sir.

25 Q. What's that?

1 A. I was doing my job. I was following the story.

2 Q. You were doing your job by crossing into an
3 unauthorized zone?

4 A. As a member of the press, that's my duty, yes.

5 Q. What exactly gives you the criteria to become a
6 member of the press?

7 A. I was working on assignment for Rolling Stone that
8 afternoon.

9 Q. So you were working for Rolling Stone, which is a
10 media platform; is that correct?

11 A. Yeah.

12 Q. What if I had a media platform called Cowboys for
13 Trump and I was on assignment, would I have a free pass to cross
14 into an unauthorized zone, as you claim to?

15 A. First of all, I'd love to see your work.

16 Q. We're not discussing work. The gist of my question
17 is: What gives you the right to come down and be a part of this
18 big crowd which you call a mob, and you feel like you're
19 entitled to because you say you're on assignment, but yet myself
20 and many others like me had media platforms with a large reach,
21 and we didn't get the same pass as you. Do you know what I'm
22 saying? You're so quick to condemn me, but yet you were a part
23 of the same crowd. Am I wrong or am I right?

24 A. I was amongst the crowd, yeah, documenting what I
25 see and doing my job.

1 Q. So you could say you were a part of the mob?

2 A. I was not part of the mob. I was not acting unruly,
3 aggressively. I was not shouting. I was not chanting, no. I
4 was trying to survive among the mob.

5 Q. I wish I would have been close to you because I
6 would have come first to your Savior and saved you from whatever
7 it is that you said that was attacking you on that day. I'm
8 sorry that you were put in a scary position and it must have
9 been very difficult for you. But I think it's very unfair for
10 you to say that I was a part of a violent mob whenever I would
11 like to ask you what actions did you see me take on that day
12 that would classify me as to have been acting violent in nature.

13 A. The mob.

14 Q. Not the mob. Myself.

15 A. Can you ask that again?

16 Q. Yes. I would like to ask you if you say that I was
17 a part of a violent mob and I was violent on that day, I'd like
18 to ask you what actions did I take on that day that would lead
19 you to that assumption?

20 A. You had a front row seat to the violence and were
21 seemingly cheerleading it, pumping your fists and having a great
22 time.

23 THE COURT: One person at a time, please.

24 BY MR. GRIFFIN:

25 Q. That was after we got through singing the National

1 Anthem. That was a time of a great expression of patriotism
2 whenever there is a million people singing the National Anthem
3 all in accord at the same time, that would give any freedom
4 loving American a charge to pump your fist a few times.

5 But I'd like to ask you: Did you see me do anything
6 that was violent in any way on January 6, since you watched me
7 very intently? How many pictures you took of me and your focus
8 was on me because as you already stated, you already knew who I
9 was. You already had a strong political opinion of me. And I
10 believe you were sitting back with your camera going, "All
11 right, we got him now."

12 But I'd like to revert back to my question. What
13 actions did I take on that day that were violent in nature?

14 A. You took a leadership role among a mob to speak to
15 the mob and insert yourself as a leader.

16 Q. So standing in a crowd in a place where I was
17 visible, would that qualify as being a leader?

18 A. With a bullhorn.

19 Q. How long did I have the bullhorn for?

20 A. I don't recall the specifics at the moment, but I
21 would be happy to look at my photos.

22 Q. Two minutes? Three minutes?

23 A. No. You spoke for longer than that. You tried to
24 get the crowd's attention for longer than that.

25 Q. I did. And you are correct in that. I did try to

1 get the crowd's attention. The reason why I got the crowd's
2 attention was not to speak to them but was to lead them in
3 prayer, to pray for peace. The first words that came out of my
4 mouth, if you were listening whenever I spoke was I told the
5 crowd "We've been fighting too much. We need to come in peace.
6 We need to pray."

7 And whenever I took the bullhorn, if I was going to
8 incite violence with a bullhorn from the position I was standing
9 at, which direction do you think I would turn to incite the
10 violence?

11 A. Say that one more time.

12 Q. You answered it right, go ahead.

13 A. Repeat your question, please.

14 Q. If I was going to incite the violence with a
15 bullhorn from where I was standing at, which direction do you
16 think that I would face with a bullhorn? Do you think I would
17 face towards the west tunnel where the fighting is going on at
18 or would I turn away from it to the people who are coming up and
19 to tell them that we've been fighting long enough? What would
20 your response be?

21 A. These are a lot of hypotheticals, but I think the
22 violence was surely happening when people overran that platform,
23 and it probably wasn't long after. I didn't have my eyes on it.
24 I was on the ground level. But I guess perceiving you with a
25 bullhorn faced out into the mob to get more people

1 participating.

2 Q. And see how perceptions can be wrong, which yours
3 was definitely wrong on that day because I turned to the people
4 and I told them that they'd been fighting too long, it's time to
5 pray, its time to seek peace. That was my message to them. If
6 you could have heard it on that day, maybe your perception
7 wouldn't have been so off on me.

8 I'd like to ask you on, you know, being an expert
9 from Seattle as far as violence goes in the streets, do you
10 believe that people can take on the roles of maybe an Antifa
11 member that's not a member?

12 A. Antifa isn't a real thing.

13 Q. That's not my question. My question is: Say an
14 Antifa rally where everybody is dressed in black, everybody
15 dresses the same, could somebody like myself dress all in black
16 and cover my face like Antifa does and go to an Antifa protest
17 with a black umbrella that could be used as a spear, and do you
18 think I could pass as an Antifa member?

19 A. I don't know what an Antifa member is.

20 Q. Do you know what a Trump supporter is?

21 A. Someone who supports Trump.

22 Q. Do you know of the way different people dress at
23 different groups? If you go to a Trump rally, do you typically
24 see maybe a red "Make America Great Again" cap or maybe a Trump
25 shirt or a flag? Would that be common? I mean, you don't have

1 to play dumb. You can just answer.

2 A. I know what people who wear Trump merchandise look
3 like.

4 Q. Do you think it would be possible for somebody who
5 does belong to the Antifa movement, maybe not a membership but
6 the Antifa movement, do you think somebody like that could put
7 Trump gear on and blend into the crowd and look like a Trump
8 supporter?

9 A. I only saw Trump supporters that day.

10 Q. That's not my question. My question is: Do you
11 think somebody could put on Trump gear -- I'm afraid that you
12 are so blinded by your political bias that you can't answer the
13 questions with clear conscience and honesty. It's just an
14 honest simple question.

15 A. What's your question?

16 Q. My question is: Do you believe that if somebody is
17 a part of Antifa and they typically dress in black, which we
18 know they do, and they -- if that same person could put a red
19 "Make America Great Again" cap on and dress in Trump gear and
20 dress up to look like a Trump supporter when all they really
21 want to do is hurt President Trump, could that be possible?

22 A. No.

23 Q. No, that could not be possible?

24 A. That's not what I saw that day.

25 Q. I think you're discredited. I didn't ask you if you

1 saw it on that day. I only asked you if it would be possible
2 that that could happen.

3 A. Why would that happen?

4 Q. I think you are discrediting yourself.

5 THE COURT: Just answer his question as he's asking
6 it.

7 A. I don't think it's possible. No.

8 BY MR. GRIFFIN:

9 Q. And that's fine, I'll take that response because all
10 it will do, I'm sorry to tell you, all it does is discredit
11 you as a witness because you are so politically biased and
12 you're so arrogant --

13 THE COURT: Please just ask the question.

14 MR. GRIFFIN: I'd like to ask you, if you will,
15 please, sir, if you can play video 20 at 2940.

16 (Note: The video is played to the Court.)

17 BY MR. GRIFFIN:

18 Q. As you heard me mention Ray Epps earlier today. You
19 are going to have a good shot at him right there. That's Ray
20 Epps. Ray Epps, the night before January 6, was in the street
21 directly inciting the crowd to go down to the Capitol and enter
22 inside of the Capitol.

23 MR. GRIFFIN: Go ahead and play it if you would,
24 please.

25 (Note: The video is played to the Court.)

1 BY MR. GRIFFIN:

2 Q. Watch the behavior of Ray Epps. He was waving to
3 the crowd.

4 MR. GRIFFIN: You can turn it off.

5 BY MR. GRIFFIN:

6 Q. This is the hypocrisy of what's going on today. I'm
7 on trial --

8 THE COURT: Again, this is not a time for a speech.
9 It's time to ask this witness questions.

10 MR. GRIFFIN: I don't think that I am going to be
11 able to get serious responses out of witness. I think that his
12 political bias is extremely evident in his failure to ask --
13 answer even the most simplest of questions if a person can put a
14 different kind of attire on and dress up as something that
15 they're not. I believe the witness knows the point that I was
16 trying to make and failed to answer the question and only in
17 attempt to sabotage what he knew I was fixing to point out as
18 evident.

19 I think it's evident to point out to Your Honor and
20 the Court to see the fact that Mr. Gowdy stood out with his
21 camera for such a long time only focused on me.

22 THE COURT: Mr. Griffin, do you have further
23 questions for this witness?

24 MR. GRIFFIN: I don't believe I do. I don't think
25 that I can get any answers out of him if I wanted. Thank you.

1 THE COURT: Mr. Dodd, do you have any further
2 questions?

3 MR. DODD: I don't have any further questions, thank
4 you.

5 THE COURT: Mr. Gowdy, you are excused.

6 We'll take a 15-minute break and then you can call
7 the next witness. We'll be in recess for 15 minutes.

8 (Court in recess at 3:05 p.m.)

9 THE COURT: We're back on the record.

10 MR. SUS: Your Honor, Plaintiffs call officer Daniel
11 Hodges.

12 THE COURT: Is he here or is this a video? Officer,
13 come forward, please.

14 (NOTE: Witness sworn by the Court.)

15 THE COURT: Please have a seat, Officer.

16 DIRECT EXAMINATION

17 BY MR. SUS:

18 Q. Could you state your name for the record.

19 A. My name is Daniel Patrick Hodges.

20 Q. Where do you currently work?

21 A. Currently work with the Metropolitan Police
22 Department in Washington, D.C.

23 Q. What is your rank?

24 A. I'm a police officer.

25 Q. How long have you worked at the D.C. police

1 department?

2 A. I've been with the Metropolitan Police Department in
3 Washington, D.C. since December 2014, so approximately seven and
4 a half years.

5 Q. What divisions are you assigned to?

6 A. I'm assigned to Patrol, Fourth District. I'm
7 assigned to the Civil Disturbance Unit 42.

8 Q. What is the Civil Disturbance Unit?

9 A. The Civil Disturbance Unit, or CDU, is an
10 organization within MPD -- we are tasked with policing First
11 Amendment assemblies, as well as civil disobedience and riot
12 behavior within the District of Columbia.

13 Q. As a member of the Civil Disturbance Unit, do you
14 use special equipment?

15 A. We do.

16 Q. What do you use?

17 A. CDU members are all assigned helmets, ballistic
18 helmets, gas masks, riot batons. And I was assigned as a member
19 of C42, which is a rapid response team. That means that we are
20 given hard gear or pads that we are equipped with to defend
21 against attacks.

22 Q. Do you receive special training?

23 A. We do.

24 Q. What training?

25 A. We are trained in formations, how to move as a group

1 in order to effectively police persons in assemblies and civil
2 disobedience, as well as riot disobedience, and we are trained
3 in how to use our equipment and we are trained how to safely
4 make arrests in the event of a riot.

5 Q. Does the Civil Disturbance Unit respond to any and
6 all civil disturbances in Washington, D.C.?

7 A. The CDU portion of MPD responds to all civil
8 disturbances occurrences within D.C. that falls within our
9 jurisdiction. There are properties within the District of
10 Columbia that are under federally -- that are owned federally.
11 However, we can respond to those when the appropriate federal
12 agencies request our backup.

13 Q. What was your job prior to joining the D.C. police
14 department in 2014?

15 A. In 2012, I joined the Virginia National Guard as an
16 indirect fire infantryman. And I was honorably discharged in
17 2018.

18 Q. I'd like to turn to the morning of January 6, 2021.
19 Were you on assignment with the Civil Disturbance Unit that
20 morning?

21 A. I was.

22 Q. What were your initial orders?

23 A. Initially we were ordered to go down to the 1100
24 block of Constitution Avenue and monitor the crowds that were
25 going into the Ellipse on high visibility capacity. That means

1 that we were simply standing outside and standing on foot, being
2 visible to the public and making our presence known.

3 Q. What event were you monitoring?

4 A. We were monitoring former President Donald Trump's
5 rally on the Ellipse.

6 Q. As you were monitoring the crowd that morning, did
7 you notice anything unusual about how they were dressed?

8 A. I did.

9 Q. What was that?

10 A. There were many people who were going into the park
11 that day who were dressed in tactical gear.

12 Q. What type of tactical gear?

13 A. They were wearing helmets, goggles, gas masks, and
14 respirators. They were in tactical vests, exterior load bearing
15 vests that appeared to be designed to be capable of holding
16 within it a ballistic panel which would protect the wearer from
17 firearms. Many had padded gloves, tactical boots and backpacks
18 with equipment we could not observe.

19 Q. Did the people wearing tactical gear concern you?

20 A. It did.

21 Q. Why is that?

22 A. There is no reason for them to have that kind of
23 equipment in order to listen to politicians speak in a park.

24 Q. Did they look like they were prepared for something
25 else?

1 A. Yes. I was afraid they were wearing that equipment
2 and had it equipped because they anticipated violence later that
3 day and they wanted to be prepared for it.

4 Q. Did you hear anything on your police radio that
5 morning indicating a potential for violence that day?

6 A. I did. Our Gun Recovery Unit, or GRU, was on the
7 radio during the rally. They were talking about identifying
8 people in the crowd that they suspected of carrying weapons,
9 firearms. They were receiving reports of people carrying
10 firearms and attempting to identify those people in the crowd.

11 Also, our Explosive Ordinance Disposal Unit, or EOD,
12 had identified what they termed a device, and they also
13 described that device as viable over the radio. I took that to
14 mean they had found a bomb. Finally, after the rally and people
15 were making their way toward the Capitol, our incident
16 commander, our special operations division commander, was on the
17 radio getting more and more agitated, becoming more and more
18 concerned and overwhelmed by the people that were gathering
19 there and the violence they were experiencing.

20 Q. When you say "there," are you referring to the
21 Capitol?

22 A. I am.

23 Q. Were you aware of any proceedings happening at the
24 Capitol building that day?

25 A. I was. I was aware that members of Congress and the

1 Vice President were at the Capitol that day for the confirmation
2 of the 2020 Presidential election -- the certification, rather,
3 of the 2020 Presidential election.

4 Q. Did you receive an order to deploy to the Capitol
5 building?

6 A. We did.

7 Q. When?

8 A. Approximately 1:30 in the afternoon.

9 Q. What was your understanding of why your platoon was
10 being deployed to the Capitol?

11 A. I understood our platoon was being deployed to the
12 Capitol in order to support the defense there. More and more
13 people were flooding into the Capitol building from the park
14 where the rally was being held. You could tell from the radio
15 they were becoming violent, that our defenses there were not
16 holding and they needed our backup.

17 Q. Prior to January 6, 2021, had you ever been called
18 to civil unrest at the U.S. Capitol building?

19 A. I had not.

20 Q. What did you do after receiving the order to deploy
21 to the Capitol?

22 A. We responded back to the vans that we had driven
23 down to that location. The vans held our riot gear, so we
24 started putting on our hard gear. That took about ten minutes.
25 After that, we got in the vans and made our way to the Capitol

1 grounds. We got as close to the northwestern corner of the
2 Capitol grounds, got out on foot. We organized into two columns
3 and started marching towards the West Terrace.

4 Q. Could you describe what happened when you initially
5 arrived at the Capitol and when you approached the Capitol
6 building?

7 A. When we arrived at the Capitol, we got out of the
8 vans, organized in two columns, started marching toward the
9 Western Terrace. At that point, we were still away from the
10 building itself. The crowd was more thin, but very present.
11 When the crowd saw us, they started throwing insults at us.
12 They called us traitors, oath breakers, telling us to remember
13 our oaths, calling us storm troopers, telling us to be on the
14 right side of history. We kept going.

15 As we got closer to the West Terrace, the crowd
16 became more dense and more aggressive. We filed into a single
17 file and we put our arms on the shoulders of the man in front of
18 us in attempts to not get separated. Unfortunately, as we met
19 our way through the more dense and aggressive portion of the
20 crowd, we were attacked. Our assailants cut our platoon in two,
21 so-to-speak. Our leadership at the head of our column was
22 separated from the rear of us. Our leadership was able to
23 continue forward, and the rest of us at the rear were being
24 assaulted.

25 They attempted to steal my baton, or one member

1 attempted to steal my baton. We wrestled for control. I was
2 able to retain it. We --

3 Q. How did the mob attack you?

4 A. The mob attacked me in a variety of ways. Punching,
5 kicking, pushing. They assaulted me with pepper spray. One of
6 them attempted to gouge out my eye, get his thumb in my eye.
7 They stole our equipment. I was assaulted with police shields
8 and my own riot baton. I was knocked to the ground. There were
9 projectiles thrown at me. And just a variety of ways. I can't
10 remember every single way.

11 Q. What injuries did you sustain?

12 A. I suffered pain and bruising all over my body,
13 swelling in my hand. I had a large contusion on my head, which
14 I believe resulted in a concussion because I had a headache for
15 about two weeks after the fact. I had -- I was bleeding from my
16 mouth. And whenever I see footage of that day, it makes my
17 heart race and makes my blood pressure shoot up.

18 Q. Officer Hodges, did you fear for your life at any
19 time on that day?

20 A. I did.

21 Q. When?

22 A. When we were making our way toward the Western
23 Terrace, I was kicked and knocked down to my hands and knees.
24 The medical mask I was wearing at the time, to protect me from
25 coronavirus, was pulled over my eyes and I was blinded,

1 surrounded by an aggressive mob. Also, when our defenses fell
2 in front of the West Terrace and we were being attacked in
3 earnest, and someone attempted to gouge out my eye. I thought I
4 would be seriously disfigured then, if not killed.

5 Then later on, in the tunnel connecting the crypt to
6 the West Terrace, when I was being crushed by the mob and
7 assaulted with my own weapon, I knew that I sustained another
8 injury like the one I sustained in there could very easily
9 cripple me or kill me.

10 Q. To your knowledge, what injuries did your fellow
11 officers sustain?

12 A. My fellow officers sustained a wide variety of
13 injuries, everything from lacerations to pain and bruising,
14 confusions, broken bones, broken teeth, broken nose. One of my
15 sergeants had to have his fingertip surgically removed after it
16 was crushed with a blunt instrument. Another one of my
17 sergeants was shocked with a cattle prod. The much -- I'm
18 sorry. There's the PTSD. There was many officers -- multiple
19 officers who committed suicide in the following year. One
20 officer died the next day from a stroke. Just a wide variety of
21 injuries.

22 Q. The officer that died from a stroke, was that Brian
23 Sicknick?

24 A. It was, yes.

25 Q. Over the course of the day, did you see the

1 attackers use weapons?

2 A. I did.

3 Q. What kind?

4 A. I saw them use flag poles. I saw them use -- the
5 Capitol Police had erected what's being called bike rack saddle
6 barriers. And the mob had been breaking those apart,
7 deconstructing them and passing the constituent poles to each
8 other to use as weapons. And various projectiles they had lying
9 around, as well as our own weapons and defensive equipment, such
10 as police shields and riot batons were being used against us.

11 Q. You testified earlier that you saw people that
12 morning wearing tactical gear. Do you recall testifying that?

13 A. I do.

14 Q. At the Capitol, did you see individuals in the mob
15 wearing the same type of tactical gear?

16 A. I did.

17 Q. At the time, what was your understanding of why the
18 mob was at the Capitol on January 6?

19 A. I understood the mob to be at the Capitol to prevent
20 the certification of the 2020 Presidential election.

21 Q. What did you observe that day that led you to that
22 conclusion?

23 A. The mob had "Stop the Steal" flags and articles of
24 clothing. They were chanting. I understood this to mean that
25 they believed the 2020 Presidential election was somehow stolen,

1 that Joe Biden had somehow won in an undemocratic manner and
2 that they needed to prevent the transfer of power and that they
3 were willing to use violence and intimidation to achieve that
4 goal.

5 Q. Did the mob outnumber law enforcement that day?

6 A. They did.

7 Q. By how much?

8 A. 50 or 75 to 1.

9 Q. Did the size of mob impact your ability to do your
10 job that day?

11 A. Absolutely.

12 Q. How?

13 A. The size of the mob was the mob's greatest weapon.
14 The size of the mob is what enabled them to achieve the level of
15 success that they did in achieving their goal. The sheer number
16 of the mob made it so we were overwhelmed with potential
17 threats. There were no uniforms differentiating those who were
18 actively violent or those who were not actively violent in the
19 mob. So those who were violent would attack and then fall back
20 into the mob to where we could not effectively engage them
21 without leaving ourselves vulnerable to attack from the other 49
22 to 74 members of the mob that we had to deal with.

23 Q. Is it fair to say that the nonviolent members of the
24 mob camouflaged the violent members of the mob?

25 A. It is.

1 Q. Did the size impact your ability to use firearms?

2 A. It did.

3 Q. How so?

4 A. One of our general orders is that we cannot
5 discharge our firearm into a crowd. While many members of the
6 mob did at times use force that was likely to cause serious
7 bodily injury or death, the fact that they only existed within
8 the mob meant that we were unable to engage them with that level
9 of force in a lawful manner.

10 Q. Did the size of the mob impact your ability to make
11 arrests?

12 A. It did.

13 Q. How?

14 A. As I previously testified, the size of the mob was
15 the mob's greatest weapon. We needed -- in order to make an
16 arrest, we are legally obligated to the safety, security and
17 medical well-being of our prisoner. And these are things that
18 we could not guarantee for ourselves, let alone people inside
19 the building, such as members of Congress, the Vice President,
20 Congressional staff. And it was certainly was not something
21 that we could guarantee for any prisoner that we attempted to
22 take.

23 We also had no means of removing the prisoner from
24 the premises, so -- because of the size of the mob and how they
25 had surrounded the Capitol, which is something that we would

1 have to do.

2 Q. Did the size of the mob impact the ability of
3 emergency medical personnel to render aid to individuals on the
4 Capitol grounds?

5 A. It did.

6 Q. How so?

7 A. Part of our duties is to call for medical services
8 when we find someone who needs it or to render aid when
9 possible. Unfortunately, as I said, we could not guarantee our
10 own safety. We were under constant attack. Emergency medical
11 personnel had no safe means of getting to the Capitol to render
12 aid to individuals who needed it. They had no way to remove
13 people from the Capitol who needed transport to a medical
14 center.

15 Q. What about nonviolent people in the mob, did they
16 impact your ability to do your job that day?

17 A. Absolutely.

18 Q. How so?

19 A. The sheer number of them was what made it
20 particularly impossible to deal with the situation effectively.
21 They provided cover and support for the most violent members.
22 They housed, so-to-speak, the most violent members who came
23 forward to take the places of the members of the mob who
24 sustained injuries and fell back so that it was just a sea of
25 potential threats and something that we did not have the numbers

1 to deal with.

2 Q. Is it fair to say every member of the mob was a
3 potential threat?

4 A. Absolutely.

5 Q. What about members of the press who were documenting
6 the days of events as a part of their professional duties, were
7 they obstructing your job that day?

8 A. No, no. Members of the press were not a threat or
9 an obstruction either in their behavior or their numbers.

10 Q. Could you expand on that.

11 A. I saw very rarely someone with a camera or someone
12 with press credentials who were documenting the scene. And they
13 did not -- I never observed any members of the press assaulting
14 police, encouraging aggression or being disruptive. They were
15 simply there to document.

16 Q. Are D.C. Metropolitan Police officers required to
17 wear body cameras when you're on duty?

18 A. We are.

19 Q. Were you wearing your body camera on January 6?

20 A. I was.

21 Q. Did you review your camera footage in preparation
22 for your testimony today?

23 A. I did.

24 MR. SUS: Joe, please play Exhibit 147B.

25 (Note: The video is played to the Court.)

1 BY MR. SUS:

2 Q. Officer Hodges, can you see Plaintiffs' Exhibit 147B
3 on your screen?

4 A. I can.

5 Q. Is this your body camera footage from January 6?

6 A. It is.

7 Q. Does the footage accurately depict the events from
8 January 6 as you recall them?

9 A. It does.

10 Q. Do you see the numbers on the top right corner of
11 the screen?

12 A. I do.

13 Q. What are the first two sets of numbers?

14 A. The first set of numbers is the date on which the
15 recording was taken. The second set is the current time at
16 which the recording was taken.

17 Q. So the date shown is January 6, 2021; is that
18 correct?

19 A. That's correct.

20 Q. The time stamp says 13:58:59; is that right?

21 A. That's correct.

22 Q. So this is approximately 1:58 p.m.?

23 A. It is.

24 MR. SUS: Joe, please play Plaintiffs' Exhibit 147.

25 (Note: The video is played to the Court.)

1 MR. SUS: Let's pause the video at 13:59:53.

2 BY MR. SUS:

3 Q. Officer Hodges, at this point the video, is your
4 platoon walking towards the West Terrace of the Capitol?

5 A. We are.

6 Q. Did you hear the people shouting "traitors" and
7 "oath breakers"?

8 A. I did.

9 Q. How did you interpret that at the time?

10 A. We were mobilizing to the Capitol to protect the
11 building as well as the people inside and the process that was
12 going on inside the building, namely the certification of the
13 2020 Presidential election. The mob was there to prevent the
14 certification of the 2020 Presidential election.

15 Q. And why did you and your fellow officers have your
16 hand on each other's shoulders?

17 A. We had our hands on each other's shoulders because
18 the crowd was becoming dense and aggressive. They were
19 preventing our easy movement toward our objective.

20 THE COURT REPORTER: Can you start over, please, and
21 talk slower.

22 THE WITNESS: Yes.

23 A. We had our hands on each other's shoulders because
24 the crowd was becoming dense and aggressive. They were
25 preventing easy movement toward our objective. We had our hands

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1 on each other's shoulders in an attempt to not get separated in
2 a crowd.

3 BY MR. SUS:

4 Q. Was that something you had done prior to January 6,
5 2021?

6 A. It was not.

7 MR. SUS: Joe, please resume the video at time stamp
8 13:59:53.

9 (Note: The video is continued to be played to the Court.)

10 BY MR. SUS:

11 Q. Officer Hodges, can you describe what we just saw?

12 A. Yes. While making our way toward the West Terrace
13 of the United States Capitol, we were attacked by the mob.
14 Someone attempted to grab my baton and steal it from me. We
15 wrestled for control of the weapon, and I was able to retain it.

16 Other members of the mob prevented our forward
17 motion. We were attacked, punched, kicked, pushed. After we
18 repelled the initial attack, we took a defensive posture.

19 MR. SUS: Please resume the video at 14:00:35.

20 (Note: The video is continued to be played to the Court.)

21 MR. SUS: Pause the video at 14:01:20.

22 BY MR. SUS

23 Q. Do you see the man wearing the vest?

24 A. I do.

25 Q. What kind of vest is that?

1 A. That is an exterior load-bearing tactical vest. It
2 appears to be designed to contain within it a ballistic panel
3 which would protect the wearer from firearms. It appears to
4 contain such a panel.

5 MR. SUS: Please play Plaintiffs' Exhibit 147C.
6 (Note: The video is played to the Court.)

7 MR. SUS: Please pause the video at 14:02:41.

8 BY MR. SUS:

9 Q. Could you describe what we just saw?

10 A. Yes. After we were attacked by the mob and we
11 repelled our attackers. I attempted to forge a path through the
12 mob in order for the rest of my platoon to follow. I turned
13 around and I noticed that my platoon was again under attack by
14 the mob, preventing their forward motion. I turned around, made
15 my way back to my platoon and started pulling members of the mob
16 off of my platoon.

17 While I was doing that, a number of the mob came up
18 and attacked me, tried to steal my baton. We wrestled for
19 control of the weapon. We went to the ground. He kicked me in
20 the chest. I was able to retain my weapon, but I ended up on my
21 hands and knees. The medical mask I was wearing at the time was
22 pulled over my eyes. I was blinded. Fortunately, the rest of
23 my platoon at that time was able to free themselves from their
24 attackers and had my back as I got back up to my feet.

25 Q. Looking at Plaintiffs' Exhibit 147C, at time stamp

1 14:02:41, what type of vest is the man wearing in the video?

2 A. The man is wearing an exterior tactical load-bearing
3 vest. It appears to be designed to contain a ballistic panel,
4 which would protect the wearer from firearms. And judging from
5 the way it's bulging out, it appears to containing such a panel.

6 MR. SUS: Joe, please resume the video.

7 (Note: The video is continued to be played to the Court.)

8 MR. SUS: Stop the video at 14:03:20.

9 BY MR. SUS:

10 Q. Did you hear the man in the video say "This is going
11 to turn bad? You need to get out of here. The others are
12 coming up from the back."

13 A. I did.

14 Q. What did you understand those words to mean?

15 A. I understood those words to mean that there was a
16 level of coordination amongst the mob, that they were
17 intentionally surrounding the building and that they planned on
18 and expected and welcomed escalation of violence even further
19 from the level of violence that we had already seen.

20 Q. When the man asked what he could do to help, you
21 said "Leave"; is that right?

22 A. That's correct.

23 Q. Why did you say that?

24 A. Because that's what he could do to help. The mob
25 being there was our greatest obstacle. That was their weapon,

1 their presence, their sheer numbers. And removing their numbers
2 was the greatest -- the greatest thing he could have done for
3 us.

4 MR. SUS: Joe, play Plaintiffs' Exhibit 147D.

5 (Note: The video is played to the Court.)

6 MR. SUS: Stop the video at 14:04:30.

7 BY MR. SUS:

8 Q. Could you describe what we just saw?

9 A. After we repelled our attackers a second time, I
10 began making a path through the mob to the West Terrace. While
11 I was making my way through the mob, I observed someone
12 destroying one of the bike rack-style barriers, breaking it down
13 into its constituent pieces in order to distribute the pieces
14 amongst the mob and use as a weapon. I observed an agitator
15 with a megaphone encouraging the mob to disobey our lawful
16 orders to disperse. Eventually, I made my way up to the front
17 of the Western Terrace where a secondary police line was being
18 held, and we made our way to realign and joined the defense
19 proper.

20 Q. The people in the crowd you were running through,
21 did every single one of them physically attack you?

22 A. They did not.

23 Q. So did those people who were peacefully standing
24 there impede your ability to do your job?

25 A. Yes.

1 Q. How?

2 A. They were a cohesive group with all the same
3 objectives, whether they were actively violent at the time or
4 not. Those who were actively violent could use them, and did
5 use them, as support to overwhelm us, to make it so we could not
6 safely engage them without considering the possible threat that
7 the other members of the mob presented.

8 The more violent members of the mob fell back to the
9 more peaceful, so to speak, members of the mob in order to
10 recuperate when they were wounded or injured. And when they
11 recovered, they joined the fight again. Those who were not
12 actively violent in the mob prevented us from getting clear
13 sightlines, prevented us from receiving medical attention,
14 prevented us from receiving backup easily, and they prevented an
15 avenue of egress should we have to retreat.

16 Q. At this time of day at 2:04 p.m., did the
17 surrounding environment indicate it was acceptable for people to
18 be near the Capitol building?

19 A. No.

20 Q. Why is that?

21 A. In order to get to where the mob was now, they had
22 to overrun a police barricade that was far away from where they
23 are. They ignored our lawful orders to disperse. They ignored
24 barricades we had set up and were actively trying to overrun
25 them. We had a loud speaker set up that was telling them, in no

1 uncertain terms, that their assembly was unlawful and that they
2 needed to disperse.

3 Q. Had the police deployed chemical irritants at this
4 point in the day?

5 A. Yes.

6 Q. What sort of chemical irritants?

7 A. Pepper spray and tear gas.

8 Q. In your experience as a police officer in the Civil
9 Disturbance Unit, do crowds disperse after the police spray
10 chemical irritants?

11 A. Yes.

12 MR. SUS: Please resume the video at time stamp
13 14:04:30.

14 (Note: The video is played to the Court.)

15 MR. SUS: Let's pause at 14:04:45.

16 BY MR. SUS:

17 Q. Looking at the video at this time stamp, where on
18 the Capitol grounds are you located at this point in the video?

19 A. At this point in the video, we are located in front
20 of the West Terrace.

21 Q. I'm looking at this big board demonstrative that we
22 have in the courtroom. Is this generally the area where you
23 were?

24 A. It is.

25 Q. Is there a police line shown?

1 A. There is.

2 Q. Did the mob break through the police line there that
3 day?

4 A. They did.

5 MR. SUS: Joe, please pay Exhibit 147E.

6 (Note: The video is played to the Court.)

7 BY MR. SUS:

8 Q. There are a number of flags shown in the video. Do
9 you see the yellow "Don't tread on me" flag?

10 A. Yes.

11 Q. What does that flag signify to you?

12 A. I know that flag to be the Gadsden flag, a flag from
13 the Revolutionary War -- the American Revolutionary War, rather.
14 And it signifies the bearer of the flag -- it signifies that
15 they feel that they were being oppressed by the government.

16 Q. Over the course of the day, did you see other flags
17 being held up referencing American wars?

18 A. I did.

19 Q. Which flags?

20 A. I saw the mob carrying flags that had 1776. This
21 is, of course, reference to the Declaration of Independence and
22 American Revolutionary War, an indicator of revolution against
23 the government. I also saw the Confederate flag in reference to
24 the American Civil War, and I saw flags with cross rifles on
25 them, a common sign amongst military and military actions.

1 Q. Over the course of the day, did you see the mob
2 holding up Christian flags?

3 A. I did.

4 Q. What was your impression of that?

5 A. I saw Christian flags. I saw flags that said "Jesus
6 is my Savior, Trump is my president." I saw flags that said
7 "God, guns and Trump," comparing to -- equivocating that the
8 three in accords (phonetic). My impression of the flags and the
9 overt Christianity symbols was that the mob wanted everyone to
10 know that the mob perceives themselves to be Christian, that
11 they believed their actions were consistent with that of
12 Christianity, that Christianity was their motivating factor. I
13 was born and raised Catholic. I went to Catholic school for
14 most of my life. I do not understand how any of the actions
15 that day is consistent with mob Christianity.

16 Q. Over the course of the day, did you see the mob
17 holding up flags that reference stopping certification of the
18 Presidential election?

19 A. I did.

20 Q. What flags were those?

21 A. I saw flags that said "Stop the Steal" on it. As I
22 previously testified, that means they were trying to stop the
23 certification of the 2020 Presidential election. I saw flags
24 that supported Donald Trump's 2020 Presidential run despite that
25 election being over and there being no real reason for them to

1 support that election. I saw flags calling Joe Biden a tyrant,
2 insulting him, even though he wasn't in power.

3 MR. SUS: Joe, please play Plaintiffs' Exhibit 147F.

4 (Note: The video is played to the Court.)

5 BY MR. SUS:

6 Q. Did you hear the man speaking in the video?

7 A. I did.

8 Q. How did you interpret his statements?

9 A. The man in the video was attempting to get us to
10 surrender to the will of the mob and allow them in the Capitol
11 building to achieve their goals of stopping the transfer of
12 power. He was using violence and coercion and threats to get us
13 to surrender. He referenced that even if we decided to use
14 legal force against the crowd, that their sheer numbers would
15 overwhelm us, which was demonstrated that day. Understood --
16 even the violent actors in the crowd understood that the sheer
17 number of the mob was the greatest weapon.

18 Q. Did other people in the mob make similar statements
19 that day?

20 A. They did.

21 MR. SUS: Joe, please play Plaintiffs' Exhibit 147G.

22 (Note: The video is played to the Court.)

23 MR. SUS: Let's pause the video at 14:30:13.

24 BY MR. SUS:

25 Q. Could you describe what we just saw?

1 A. Yes. Our defensive line in front of the West
2 Terrace was eventually breached. The crowd was able to force
3 their way through. Once it was breached, there was no way for
4 us to gain that ground back. They started to pour through the
5 hole that they had made. They started attacking us in earnest.
6 They started beating us, punching, kicking, pushing. One person
7 tried to steal my baton again. And while I was trying to obtain
8 my weapon, you heard me scream in pain while another member of
9 the mob tried to gouge out my eye. We repelled the attackers as
10 best we could, but their sheer numbers overwhelmed us and we
11 were forced to fall back.

12 You also saw in the video as we were falling back a
13 red smoke grenade. The Metropolitan Police Department does not
14 use red smoke. I believe that to be -- come from the mob
15 itself. And colored smoke in the military does not have a
16 consistent meaning, however I am aware of instances of pretty
17 popular culture where red smoke is used to signify the enemy. I
18 believe that we were being marked by the mob as the enemy in
19 order to give a beacon for those in the rear to go forward and
20 attack.

21 Q. Did you hear the man in the video say "this is our
22 house"?

23 A. I did.

24 Q. What did you understand those words to mean?

25 A. I understood those words to mean that they had the

1 right to be there, that the mob believed they had the right,
2 rather, to be there, that they believed they had the right to
3 decide what went on inside the Capitol building and that they
4 believed they had the right to stop the certification of the
5 2020 Presidential election, and that they had the right to use
6 violence to achieve these goals.

7 Q. Over the course of the day, did you hear other
8 attackers say "This is our house"?

9 A. I did.

10 MR. SUS: Joe, please play Plaintiffs' Exhibit 147H.
11 (Note: The video is played to the Court.)

12 BY MR. SUS:

13 Q. Could you describe what we just saw?

14 A. Yes. After the mob had broken through our secondary
15 defense perimeter in front of the West Terrace and we were
16 falling back, I found other officers were attempting to detain a
17 man with a large knife and a sheath on his belt. I ran over to
18 help him keep him down while another officer disarmed the knife.

19 Q. Was this man arrested at the scene?

20 A. He was not.

21 Q. Why not?

22 A. The circumstances, the sheer size of the mob and the
23 danger present to everyone made it impossible for us to make
24 arrests at the scene. There was just no way for us to do so
25 without ensuring the prisoner's safety and security. And in

1 order to keep a prisoner, we have to typically detail two
2 officers to a prisoner, and we needed every officer we had to
3 help in the defense.

4 MR. SUS: Joe, please play Plaintiffs' Exhibit
5 147I.

6 (Note: The video is played to the Court.)

7 MR. SUS: Let's pause the video at 14:33:11.

8 BY MR. SUS:

9 Q. Just to orient us, can you describe where you
10 started on the video and where you ended up?

11 A. At the beginning of the video, I was in front of the
12 West Terrace. We ascended a temporary staircase that was part
13 of the inaugural stage and ended up on top of the inaugural
14 stage and on the West Terrace proper.

15 Q. So looking at the big board demonstrative that we
16 have in the courtroom. You started here and you took the
17 staircase up here?

18 A. Correct.

19 Q. And this is where you were?

20 A. Correct.

21 Q. Looking at the time stamp on the video, it says
22 14:33. Do you see that?

23 A. Yes.

24 Q. Is that approximately 2:33 p.m.?

25 A. It is.

1 Q. By 2:33 p.m., were the police in control of where
2 you were standing on the West Terrace of the Capitol?

3 A. Yes.

4 Q. Did the mob take control of the West Terrace later
5 that day?

6 A. Yes.

7 MR. SUS: Joe, please play Plaintiffs' Exhibit 147J.

8 BY MR. SUS:

9 Q. Officer Hodges, just to orient us again, can you
10 walk us through where you started at the beginning of the video
11 and where you ended up?

12 A. At the start of the video, I was on the Western
13 Terrace and walked through the tunnel connecting the Western
14 Terrace, through the crypt and ended up in the United States
15 Capitol at that time.

16 Q. Is that you coughing in the video?

17 A. It was.

18 Q. What were you coughing from?

19 A. Exposure to tear gas.

20 Q. Looking at the big board demonstrative, you had
21 mentioned the tunnel; is that right?

22 A. That's right.

23 Q. Is that the tunnel?

24 A. Correct.

25 MR. SUS: Joe, please play Plaintiffs' Exhibit 147K.

1 (Note: The video is played to the Court.)

2 BY MR. SUS:

3 Q. Could you tell us where you're located at this point
4 in the video?

5 A. At this point in the video, I'm in the tunnel
6 connecting the West Terrace to the crypt.

7 Q. Just to be clear, you're on the inside of the tunnel
8 that we had previously discussed that you walk through?

9 A. Correct.

10 Q. Can you describe what was happening in the video.

11 A. In the video, we are attempting to repel the mob who
12 was attempting to break our defenses inside the tunnel and make
13 their way inside the Capitol building.

14 Q. Could you describe the scene inside of that tunnel.

15 A. The scene inside the tunnel was a sensory overload.
16 It was extremely loud, very densely packed. There was chemical
17 munitions in the air. There was a lot of pressure, physical
18 pressure. We were -- it was a fight of inches attempting to
19 push the mob out as best we could.

20 Q. Now, by this point in the day, at 2:55 p.m., as
21 shown in the video, had the mob taken control of the West
22 Terrace?

23 A. Yes.

24 Q. What was your belief of what would happen if the mob
25 broke through the police line in that tunnel?

1 A. At the time, we did not know whether the mob was
2 able to breach the Capitol in other places of the building. We
3 believed that we were the literally the last line of defense for
4 Congress and the Vice President. We believed that if they were
5 able to break through our defenses, that they would have
6 unfettered access to most of the building and make good on their
7 threat of violence and stopping the transfer of power.

8 Q. And to be clear. Threats of violence against whom?

9 A. Congress and the Vice President.

10 Q. Did you hear the officers in the video say
11 "interlock the shields"?

12 A. I did.

13 Q. What does that mean?

14 A. The particular riot shields you saw in the video
15 are, by design, able to lock in with other shields of similar
16 design. This allows them to function as one large shield and
17 eliminates the vulnerability apparent in operating two
18 individual shields.

19 Q. Prior to January 6, 2021, had you ever used that
20 interlocking shield function to defend against a crowd?

21 A. I had not.

22 Q. Did you end up moving closer to the front of the
23 line in the tunnel at any point that day?

24 A. I did.

25 MR. SUS: Joe, please pull up what's been admitted

1 into evidence as Plaintiffs' Exhibit 148.

2 BY MR. SUS:

3 Q. Officer Hodges, can you see Plaintiffs' Exhibit 148
4 on your screen?

5 A. I can.

6 Q. Did you review this video in preparation for your
7 testimony today?

8 A. I did.

9 Q. Does this video show you in the tunnel on the
10 Capitol's West Terrace on January 6, 2021?

11 A. It does.

12 Q. Does the video fairly and accurately depict the
13 events from January 6, 2021 as you remember them?

14 A. It does.

15 MR. SUS: Joe, please play the video.

16 (Note: The video is played to the Court.)

17 BY MR. SUS:

18 Q. Could you describe what we just saw?

19 A. Yes. I was at the front of our defenses in the
20 tunnel connecting the West Terrace to the crypt. I was
21 attempting to repel the attackers from their attempt to break
22 through our defenses and enter the Capitol building. Part of my
23 efforts -- excuse me. As part of my efforts, I braced myself
24 against a door frame that's present inside the tunnel in an
25 effort to create and give a structural support in my efforts to

1 push the crowd back.

2 Unfortunately, the momentum had shifted. The mob
3 was able to pin me against the door frame. My arms were pinned
4 to my sides, and I was stuck in such a way that I had no
5 functional strength in my legs, effectively rendering me
6 completely vulnerable. A member of the mob took advantage of my
7 vulnerability. He grabbed my gas mask, started beating me un
8 the face with it, pushing it back and forth on my neck. He
9 ripped my gas mask off, dislodging my helmet. He also was able
10 to break away my baton, as I had no functional strength in my
11 arms, and beat me in the head with it.

12 At the same time, the mob was accordioneing their
13 efforts, shouting "heave-ho" in an attempt to break through our
14 defensive line. And their physical efforts were crushing me
15 against the structure itself.

16 Q. You mentioned that people shouting "heave-ho." Was
17 it your understanding that they were synchronizing their
18 movements?

19 A. They were, yes. They were doing that to the force
20 multiplier to make it so that their offensive was more effective
21 and create as much pressure as possible on our defensive line.

22 Q. The body camera video that we had previously marked,
23 which is submitted as Exhibit 147K, showed you in the tunnel
24 around 2:55 p.m.; is that right?

25 A. That's correct.

1 Q. Approximately how long after 2:55 p.m. did the
2 events shown in this video in Exhibit 148 take place?

3 A. Approximately 15 minutes.

4 Q. So around 3:10 or so?

5 A. That's correct.

6 Q. Did you remain in the tunnel much longer after 3:10?

7 A. I did not.

8 Q. Where did you go?

9 A. After I was assaulted in the tunnel, I did the only
10 thing I could do and call out for help. Fortunately, other
11 officers were able to extricate me from that position, and I
12 fell back to the crypt at the other end of the tunnel. Inside
13 the crypt, I convalesced, put myself back together. And I knew
14 that the fight was not over yet and I had to get back out there.
15 So I did so.

16 I did not go back in the tunnel as my gas mask was
17 stolen and I was afraid I would become a liability. Instead, I
18 went to a staircase nearby and went to the upper West Terrace
19 where another police line was being held against the mob. I
20 assisted in holding that line for some time, until
21 reinforcements from outside agencies started to arrive, at which
22 point I went back to the crypt.

23 Once inside the crypt the second time, I waited and
24 gradually other members of my platoon started to get there as
25 well. And we waited until we were all assembled. We waited

1 there for further orders. Fortunately, more backup was
2 continuing to arrive, and we didn't have to deploy outside the
3 crypt. After that, we waited until we received orders that we
4 were able to clear the Capitol building.

5 Those of us who needed immediate medical attention
6 went to the hospital. Those of us who did not were still on
7 duty because the members of the mob were now in the city, no
8 longer in the Capitol grounds, but presenting a threat to the
9 community. We stayed nearby the city center where we awaited
10 further orders, until eventually we were given the okay to go
11 home. From there, we went back to our district and went home.

12 Q. What time did you get home?

13 A. I got home at approximately 1:30 in the morning on
14 the morning of January 7, 2021.

15 Q. How would you characterize the events that you
16 witnessed on January 6, 2021?

17 A. The events of January 6, 2021 were a terrorist
18 attack on the Capitol of the United States of America. It was
19 an effort -- a coordinated effort by a violent mob to install a
20 dictator, to overturn a fair and free election that had been
21 carried out and that they had disagreed with. They thought that
22 -- without any evidence, that it was stolen, that they had the
23 right to decide who gets to lead the country on their own.

24 Fortunately, we were able to defend the Vice
25 President, defend Congress, defend Congressional staff. At no

1 point did any member of the mob encounter a member of Congress
2 that day thanks to our efforts. And ultimately, the mob failed.

3 We were able to certify the 2020 Presidential
4 election and we preserved the Republic.

5 Q. What were you fighting for that day?

6 A. I was fighting for democracy. I was fighting for my
7 colleagues fighting beside me. I was fighting for everyone
8 inside the building, members of Congress, the Vice President,
9 Congressional staff, and I was fighting for everyone who cast
10 their votes in the 2020 Presidential election so that the will
11 of the people could carry forward.

12 MR. SUS: Thank you. No further questions.

13 THE COURT: Mr. Griffin?

14 CROSS-EXAMINATION

15 BY MR. GRIFFIN:

16 Q. Officer Hodges, I'd like to first begin by
17 sincerely, with great remorse, apologize to you, as well as the
18 Capitol Police officers, that suffered violence on that day. I
19 believe that I'd like to apologize to you not only on behalf of
20 myself, but on behalf of millions of others that watched on TV,
21 but also were present on those grounds on that day. Because I
22 can tell you that was not my intent as I was there on that day,
23 as I was there at the Capitol. And it was not the intent of
24 many others like me to see any acts of violence and to see
25 anybody be injured the way that you were.

1 I sincerely and deeply apologize to you for what you
2 had to go through. It looked traumatic, and it was a situation
3 that you were unfairly put in, I believe.

4 And I believe the reason why you were put in that
5 position, maybe there is some different reasons -- some
6 different reasons why things happened the way that they did.

7 MR. SUS: Objection, Your Honor. Is there a
8 question here?

9 THE COURT: Mr. Griffin, you may respond to the
10 objection.

11 MR. GRIFFIN: To -- what was it again? I'm sorry?

12 MR. SUS: What is the question?

13 MR. GRIFFIN: I'm sorry. I didn't start off with a
14 question. I'm sorry that I started off with an apology.

15 BY MR. GRIFFIN:

16 Q. So -- but I'd like to -- I guess as my questions
17 begin, probably one of the first questions that I have for you,
18 Officer Hodges, is as -- you know, you just testified earlier
19 that you attended the rally down at the Ellipse that morning of
20 January 6 and you saw some things that concerned you, as you
21 stated, with the type of gear people were wearing, the way
22 people were dressed, maybe the behavior of some people.

23 And as you saw that and as you noted it, I'd like to
24 ask you, what was your response to those concerns? Did you
25 report back to your superiors? Did you pass that information

1 on?

2 A. The people in tactical gear were known to my
3 superiors and other law enforcement. Wearing the gear that I
4 described is not a crime. There was no legal reason for us to
5 stop them.

6 Q. On the lead-up to January 6, was there -- was there
7 concern inside your department that you may have had the type of
8 crowd that was there on the day of January 6?

9 A. Yes. We were deployed that day in order to control
10 those crowds. So there was definitely concern about violence.

11 Q. Was there any extra measure of security? Did the
12 Capitol [sic] Police take extra measures of security on January
13 6?

14 A. I'm a member of the Metropolitan Police Department.
15 I'm not a member of the Capitol Police, so I don't know what the
16 Capitol Police does or did do on January 6.

17 With regards to MPD, we were fully deployed that
18 day. That means unless someone had leave or vacation prior
19 approved from way back, literally, every officer we had was
20 working that day. And that is not a common thing.

21 Q. Sure. Were you employed by the Metropolitan Police
22 during the Cavanaugh confirmation hearings in Washington, D.C.?

23 A. When was that?

24 Q. It was in 2017, I believe.

25 A. Yes.

1 Q. Do you remember the type of protests that were
2 taking place during those times?

3 A. No.

4 Q. So you would say that on January 6 it was unlike
5 anything you had witnessed during your time there as a
6 Metropolitan Police officer?

7 A. Yes.

8 Q. As far as barricades around the Capitol, what is
9 considered to be barricades, would you consider those to be
10 barricades as far as where the perimeter was established?

11 A. I know the perimeter was set up far outside where I
12 was when I initially arrived at the West Terrace. I was not
13 present to observe that perimeter, so I cannot testify to what
14 the perimeter was like.

15 Q. Would you translate -- what may be more commonly
16 known as a bike rack, would you consider that a barricade?

17 A. In the context of the perimeter, yes.

18 Q. What about after January 6, before January 20, when
19 all the big barriers were set up around the Capitol, would you
20 have considered that to be more of an appropriate type of
21 barrier system to be used -- that was used on those days to be
22 used on January 6?

23 A. Yes, those barriers certainly would have been
24 helpful.

25 Q. Okay. And typically, on a perimeter that's

1 established, is it typically marked as far as if the Vice
2 President or the President is present in the -- in the Senate,
3 is -- whenever you set up the perimeter, is that typically
4 marked as authorized and as unauthorized zone? Is it visibly
5 where people can see that that area is an unauthorized zone?

6 A. It would be made clear to the public that they're
7 not allowed inside the perimeter.

8 Q. And do you think that that was made clear on January
9 the 6th?

10 A. Yes.

11 Q. How so?

12 A. I've seen videos of people overrunning the initial
13 barrier.

14 Q. Have you seen videos of Capitol Police officers
15 taking barriers down and removing them?

16 A. No.

17 Q. Well, I have, and those videos are out there.

18 That's just -- and that's not -- that's not to get
19 in an exchange back and forth with you, but that's just some of
20 the concerns that we have because those videos are available
21 where it shows D.C. Capitol Police officers that are waving the
22 protestors in. It's recorded in Judge Trevor McFadden's verdict
23 in the Matthew Martin case where Judge Trevor McFadden acquitted
24 Matthew Martin, and he referenced the fact that D.C. Capitol
25 Police officers were --

1 MR. SUS: Objection. Mr. Griffin is testifying.

2 THE COURT: State your objection again, please.

3 MR. SUS: Mr. Griffin is testifying. There is no
4 question.

5 THE COURT: Mr. Griffin, you may respond.

6 MR. GRIFFIN: I'll just move on.

7 BY MR. GRIFFIN:

8 Q. In regards to the security of the Capitol, are you
9 familiar with the mechanics of the security of the Capitol
10 building?

11 A. No.

12 Q. You don't know any of the security or mechanics of
13 the security, particularly the front door of the Capitol? Do
14 you have knowledge of the front door of the Capitol building?

15 A. No.

16 Q. You -- you are under oath. You don't know how the
17 door locks?

18 A. No.

19 Q. You've never been -- you have no inside information
20 on how that door locks?

21 A. No.

22 Q. Let me ask you this question. Did you know Officer
23 Brian Sicknick?

24 A. No.

25 Q. Do you know who he is?

1 A. Yes.

2 Q. On the afternoon of January 6, whenever you heard
3 that Officer Brian Sicknick had been bludgeoned to death with a
4 fire extinguisher, how did you react?

5 A. I did not hear that Officer Brian Sicknick was
6 bludgeoned to death with a fire extinguisher on the afternoon of
7 January 6.

8 Q. What about the next day?

9 A. I don't remember the next day.

10 Q. Do you remember hearing that Officer Brian Sicknick
11 had been bludgeoned to death with a fire extinguisher?

12 A. I heard that at some point, yes.

13 Q. What was your reaction when you heard that he was
14 bludgeoned to death with a fire extinguisher on January the 6th?

15 A. That seemed like an entirely likely outcome of what
16 had happened.

17 Q. And were you saddened?

18 A. Yes.

19 Q. Were you outraged?

20 A. Yes.

21 Q. What about when you found out that was a lie?

22 A. I never found out that was a lie.

23 Q. No? You didn't hear that Brian Sicknick died of
24 natural causes of a stroke?

25 A. I did read the medical examiner's report which said

1 that all the conditions, including natural and unnatural, were
2 part of his demise.

3 Q. The medical examiner's report came back that Officer
4 Brian Sicknick died of natural causes due to a stroke. So that
5 in itself speaks that being bludgeoned to death by a fire
6 extinguisher was a lie, and it was a lie that the Capitol Police
7 officers and the federal government won't admit. Somebody told
8 -- somebody also opened the front doors --

9 MR. SUS: Objection, Your Honor. Mr. Griffin is
10 testifying again. He needs to ask questions.

11 THE COURT: Your question, Mr. Griffin?

12 MR. GRIFFIN: Yes.

13 BY MR. GRIFFIN:

14 Q. You would agree as well that -- the front doors of
15 the Capitol with the magnetic locks that were 20,000-pound
16 prison grade doors, you would agree, Officer Hodges, that those
17 doors can only be opened from the inside, from a controlled area
18 where someone has to physically push the button to disengage the
19 magnetic locks inside of the front door? You would agree with
20 that?

21 A. I have no basis of knowledge for that. I'm not a
22 member of Capitol Police and I do not know how their security
23 structure functions.

24 Q. During your time on January 6 walking through the
25 crowd, doing your best to secure the area, I'd like to ask you,

1 did you see any Trump supporters trying to help the Capitol
2 Police officers?

3 A. No.

4 Q. You never saw one instance of someone that was there
5 that looked like they were attending the mob, you never saw one
6 instant where they were trying to help the Capitol Police
7 officer up off of the ground?

8 A. Are you asking about Capitol Police officers
9 specifically or any law enforcement officer?

10 Q. Any law enforcement officer.

11 A. They appeared to ostensibly try to help at some
12 points.

13 Q. So they were helping you on January the 6th?

14 A. No.

15 Q. You never received any help?

16 A. No.

17 Q. What about the defense of other officers, did you
18 ever hear any of those that were attending the rally on that
19 day, speaking in defense of the officers, telling people to back
20 off, to leave them alone?

21 A. I heard those words, yes.

22 Q. Because that's something that we never hear from
23 anybody --anybody at these trials about the efforts of some of
24 those that were in attendance on that day that were helping,
25 doing their best to help.

1 I'd like to ask, do you know the name Rosanne
2 Boyland?

3 A. That sounds familiar.

4 Q. Does it sound familiar or do you know the name
5 Rosanne Boyland?

6 A. It sounds familiar. It's associated with the 6th.

7 Q. That's not an answer. It's a yes or a no question.

8 A. Okay. No.

9 Q. Okay. Do you know of the five deaths that the media
10 spoke of on January 6?

11 A. Not individually, no.

12 Q. Well, I'll tune you in. There was a woman named
13 Rosanne Boyland that the media told us died of a drug overdose.
14 Does that sound familiar to you, as you are under oath?

15 A. I think I've heard something like that.

16 Q. So you have heard something like that. So you have
17 heard the name Rosanne Boyland?

18 A. Okay.

19 Q. And the media and the government, according to a
20 medical examiner, said that Rosanne Boyland had died of a drug
21 overdose. But I'd like to ask you, do you know a Capitol Police
22 officer by the name of Lila Morris?

23 A. I do not.

24 Q. You don't know Lila Morris. Have you ever heard the
25 name Lila Morris?

1 A. No.

2 Q. No?

3 A. No.

4 Q. You don't know Lila Morris?

5 MR. SUS: Objection, Your Honor. Asked and
6 answered.

7 BY MR. GRIFFIN:

8 Q. Do you remember being a VIP at this last year's
9 Super Bowl game?

10 A. Oh, yeah.

11 Q. And do you remember who you attended the game with?

12 A. Yeah, and I'm guessing Lila Morris.

13 Q. Oh, you're guessing now. You have pictures where
14 you've got your arm around her at the Super Bowl game. The
15 three VIP guests from the Capitol was Michael Fanone, Daniel
16 Hodges and Lila Morris. And you sit there under oath and you
17 tell me that you don't know who Lila Morris is.

18 I'll tell you -- have you seen the videos of the
19 west side of the Capitol of the violence on that day?

20 A. Yes. We just watched them, and I was there.

21 Q. Do you recall Lila Morris savagely beating Rosanne
22 Boyland in the west tunnel of the Capitol?

23 A. No.

24 Q. I have. The videos are out there. I can't say that
25 that was the cause of her death, but what I can say is that

1 Rosanne Boyland was savagely beaten by the same lady that you
2 attended the Super Bowl with as an MVP.

3 A. Okay.

4 Q. Those are uninvestigated issues and the questions
5 that the American people are still left without answers to.
6 That's why our frustration continues to grow.

7 Would you say, in your opinion, Officer Hodges, that
8 everybody that attended the Stop the Steal rally was violent in
9 nature?

10 A. No.

11 Q. Would you go as far as to say that some of those
12 that were in attendance could have been peacefully protesting?

13 A. Yes.

14 Q. Do you feel like those people should be punished for
15 peacefully protesting?

16 A. If they broke a law, then yes.

17 Q. Yeah. And I would agree with that. I am a believer
18 in the law. Believe me, I'm not up here trying to advocate for
19 breaking the law and absolutely not for assaulting Capitol
20 Police officers.

21 But the questions that I have is why wasn't there
22 safeguards put in place on January 6 to keep you from being
23 assaulted, to keep others from losing their lives. It was a
24 violent day that could have been avoided if the Capitol Police,
25 along with the Metropolitan Police, along with the Secret

1 Service would have had the competence to define the perimeter
2 and establish the perimeter without backing down, without
3 retreating, without withholding your ground.

4 And I would like to ask you, Officer Hodges, would
5 it be possible for somebody to dress up as a supporter of
6 President Trump that maybe possibly wasn't a supporter of
7 President Trump and attack police officers?

8 A. That is possible, yes.

9 Q. The same way maybe that we saw an Antifa assault
10 police officers in Portland and Seattle or Black Lives Matters'
11 protestors assault officers in Louisville and Atlanta? To
12 identify those on January 6 as Trump supporters only because
13 they have a "Make America Great Again" hat on is dangerous. But
14 I believe that people should be held to an account for their
15 actions, especially if their actions are violent.

16 MR. GRIFFIN: But I would like to, if you would,
17 please, sir, if you got your video deal pulled up, if you could
18 run that video, 147H. Stop it for a minute. If you could run
19 it back to the beginning.

20 If I can comment right quick and then you can run
21 it.

22 BY MR. GRIFFIN:

23 Q. We look to our law enforcement to be professional,
24 to be organized, to be coordinated and to provide security,
25 especially for our political leaders.

1 I would like to ask you, Officer Hodges, if you
2 watch this video right here, are you proud and would you say
3 this is a reflection of a coordinated force, an organized force,
4 or one that is providing security?

5 A. I am immensely proud, absolutely, yes.

6 Q. So that's a sign of professionalism in the U.S.
7 Capitol today, to take a man down, no telling how it all
8 started. But in your own words, you said that he had a knife on
9 him. So he had a dangerous weapon on him. There was a crazy
10 crowd, and you guys let him get up and walk away because you
11 can't spare two officers whenever I can see probably 100 of them
12 just standing around?

13 A. Correct, yes.

14 Q. That's not professionalism, in my opinion. Maybe it
15 is in Washington, D.C.. But it's not out here in New Mexico,
16 not with the law enforcement officers that I know.

17 Please go to 147I. This is a video where you go
18 from the bottom to the top, to the West Terrace. Now, I don't
19 know if you are any kind of a student of battle, but in conflict
20 or in battle, you always seek the high point because that's an
21 easier place to secure. And right here, the D.C. Capitol Police
22 officers could have pulled back and secured the west side. You
23 guys could have stood shoulder to shoulder at the top of that
24 and not allowed one person to get near the tunnel where the
25 violence took place, where the chaos took place. But yet, you

1 failed to do that, as we can see here.

2 Instead of holding your ground, the high ground,
3 what you don't do in battle is what you did in the other where
4 you walked through the middle of the crowd --

5 THE COURT: You need to ask your question.

6 MR. GRIFFIN: Okay. All right.

7 BY MR. GRIFFIN:

8 Q. Would you say, Officer Hodges, that in a crowd that
9 you seem -- that may seem to be volatile, that may seem to be
10 dangerous, would you think it's a good idea to take a small
11 group of officers, as you did, and just walk randomly through
12 this crowd that you consider dangerous?

13 A. That's not what we did.

14 Q. It's what we saw in the videos earlier when you were
15 -- you had the billy club taken away from you. You were a small
16 group walking through a large crowd. And I don't think it --
17 right, but I'll go back to the video that I had pulled up.

18 And this is where if the Capitol Police, along with
19 the Metropolitan Police, along with the efforts of the Secret
20 Service, would have pulled back, you could have fortified the
21 west side right here and prevented anybody from ever getting to
22 the tunnel.

23 MR. GRIFFIN: Roll the tape, please.

24 (Note: The video is played to the witness.)

25 MR. GRIFFIN: That's good. You can stop there.

1 BY MR. GRIFFIN:

2 Q. Would you say there was good direction on that day?
3 Would you say the leadership of the Capitol Police did a great
4 job on January 6?

5 A. I'm a member of the Metropolitan Police Department.
6 I don't have access to the Capitol Police.

7 Q. Would you say the Metropolitan Police force did a
8 great job on January 6?

9 A. They did the best job they could considering the
10 circumstances.

11 Q. Could they have done better?

12 A. Possibly. I'm not at that level of discussion in
13 planning, so I can't say for certain what plans were set in
14 motion and what they could have done better.

15 Q. If there is a rally in Washington, D.C. that's going
16 to consist of over a million, possibly, if it's what intel is
17 telling you, disgruntled Trump supporters descending in
18 Washington, D.C. on one day, would that be a reason to bring in
19 more forces and get better prepared for the could be's?

20 A. I wouldn't be against it.

21 Q. Was there any preparation done?

22 A. Not anything specific --

23 Q. Was there any extra security done, was there any
24 added security done on that day?

25 A. Added to what?

1 Q. Added to a regular day's service.

2 A. Yes.

3 Q. But it failed. Would you say that it didn't fail?
4 Would you say that the security that was involved on January 6
5 including the Secret Service, the D.C. Capitol Police and
6 Metropolitan Police, would you say that you guys did a good job?

7 A. Yes.

8 Q. With five deaths?

9 A. Yes.

10 Q. You would say that that was a job well done even
11 though a Capitol Police officer, as you say, died as a result of
12 it which we know he died of a stroke? Would you say the
13 suicides that took place after, all the injuries that you say
14 took place on that day, but you would still say that it was a
15 good job or would you say we could have done better?

16 A. I think it was a good job, I think.

17 Q. You say it was a good job? You couldn't have done
18 better?

19 A. I don't know how we could have done better. We had
20 literally everyone activated that we had.

21 Q. What about calling the Guard?

22 A. At that time, I was not part of any National Guard.
23 I don't know what communications were made regarding the
24 National Guard and I don't know what requests were made.

25 Q. Well, you've definitely become a spokesperson for

1 January 6. We've seen the hearings on TV. We've seen the
2 photos on that with Sean Penn. We've seen all the production,
3 and you're in the centerpoint of it. So you maybe should be
4 more well-rounded if you are going to be in a spokesperson place
5 to maybe speak more broadly on all points, maybe have a more
6 well-rounded opinion, possibly, if you will, find out who pushed
7 the button to unlock the front door of the Capitol.

8 MR. SUS: Objection. There is no question.

9 BY MR. GRIFFIN:

10 Q. If you would --

11 MR. GRIFFIN: I'll rephrase.

12 BY MR. GRIFFIN:

13 Q. Can you? Is it inside of your capacity, can you do
14 America a favor? Not me, not the Trump supporters. Can you do
15 America a favor and can you find out who pushed the front button
16 to release the magnetic locks on the front doors of the Capitol?

17 A. Well, I'm personally really glad those doors were
18 open. If they weren't, we would have absolutely had no egress
19 and I likely would have been killed.

20 Q. So by those front doors being opened, that prevented
21 you from being killed on the west side?

22 A. It's entirely possible, yes.

23 Q. On that day on January 6, were you pushed out the
24 front door? I don't understand.

25 A. I don't understand what you're saying.

1 Q. You're saying by those doors being opened, it kept
2 you from being crushed?

3 A. The Capitol building was completely surrounded. We
4 had no way of getting out. Everywhere we looked we were
5 surrounded by threats. Because those doors were open, we were
6 able to lure -- not lure, but create an effective offense,
7 similar to the Battle of Thermopylae.

8 Q. Let me reask you -- so you said that you had a way
9 to lure, to lure the people to the other side?

10 A. No, not --

11 Q. Is that what you just said just a second ago?

12 A. Yes, and I misspoke.

13 Q. You misspoke like Biden misspeaks sometimes too and
14 actually says something that maybe he shouldn't?

15 Because on that day, it's very -- the dynamics of
16 that day, what happened on that day is very interesting. Would
17 you say that the front door was open while the west side was
18 totally fortified and nobody come in?

19 A. I was on the west side the entire time. I don't
20 know what happened on the east side.

21 Q. But you just said that you're glad that that door
22 was open?

23 A. That was yes.

24 Q. So you're admitting that that door was left open?

25 A. I don't know whether it was left open. I know that

1 it was open.

2 Q. But it was open and people were walking in casually?
3 People were not being stopped at that door?

4 A. No. I'm talking about the tunnel.

5 Q. I'm talking about the front door. I'm talking about
6 the 20,000-pound magnetic lock prison grade door that somebody
7 pushed the button to release the locks and open the door.
8 That's the door I'm talking about being opened.

9 A. Are you talking about the door that I was crushed
10 against?

11 Q. And the door that you were crushed against on the
12 other side, no. I'm asking you if you would agree the traffic
13 -- that people were being absolutely stopped on one side of the
14 Capitol and allowed to walk in on the other side?

15 A. You need to specify between east and west because I
16 don't know what you're talking about.

17 Q. The east door open, the west door closed down, would
18 you agree with that? The east door open, the west side locked?

19 A. No. I was on the west side of the Capitol the
20 entire day. And when I went through the tunnel, the west door
21 was open. I do not know what happened on the east side of the
22 Capitol.

23 Q. On that west side, since you are familiar with the
24 door on the west side of the Capitol, is that a door that can be
25 locked as well and secured?

1 A. I'm not a member of the Capitol Police. I don't
2 have any structural security measures of the United States
3 Capitol.

4 Q. You don't know if that door can be locked or not?
5 So like at night -- you don't know if the door can be locked at
6 night to the Capitol building, or secured? You don't know if
7 the door to the Capitol building can be secured or not?

8 A. I do not know.

9 Q. Well, I'm sure it can be. And on that day, it
10 wasn't. That's just the questions that we have. Those are the
11 whys that are never going to go away. History will one day
12 shine a light on January the 6th, and it's up to you to see what
13 side of that light you're going to be standing on. As we pray
14 to be standing on the right side. I pray for you.

15 And whenever I started, I meant what I said. I am
16 sorry that you've gone through what you've gone through, but
17 believe me there is a lot that have gone through and suffered
18 tremendously that were in attendance on that day.

19 I'd like to ask you before I close about one of
20 those. I'd like to ask you do you know a man by the name -- or
21 do you know the name of Jake Lane?

22 A. No.

23 Q. Never heard the name Jake Lane before?

24 A. No.

25 Q. Jake Lane was on the west side of the Capitol on

1 that day. Jake Lane is a patriot who saved two lives on January
2 6. Both of those people have signed sworn affidavits that the
3 only reason why they're alive is because Jake Lane pulled them
4 out from underneath a crowd of being crushed and he tried and
5 fought diligently to save the life of Rosanne Boyland before she
6 was beaten to death or crushed to death, I don't know --

7 MR. SUS: Objection, Your Honor. Mr. Griffin can
8 make these statements in his closing argument. He's testifying.
9 He needs to ask questions.

10 BY MR. GRIFFIN:

11 Q. But what I'd like to ask you in regards to Jake
12 Lane, is do you know that Jacob Lane has been locked up in
13 solitary confinement for eighteen months? And I know what that
14 place is like. I've been there. I spent three weeks in the
15 D.C. Gulag on a misdemeanor trespass charge, and it was the
16 hardest three weeks of my life. I believe in justice, but what
17 we have rights now is not. But I just encourage you to keep the
18 fight. I appreciate your service to our country.

19 And I'd just like to ask you one more time -- I
20 guess two questions. My first question is, is, would you please
21 find out who pushed the button to unlock the magnetic locks on
22 the 20,000-pound prison grade front door of the Capitol? First
23 question.

24 Second question: Can you please look inside of your
25 capacity into Lila Morris and her actions on January 6 in

1 regards to the beating of Rosanne Boyland on the west side of
2 the tunnel? Because history is watching very closely.

3 MR. GRIFFIN: Thank you for allowing me to question.

4 THE COURT: Thank you, sir.

5 Mr. Sus, any redirect?

6 MR. SUS: No, Your Honor.

7 THE COURT: Officer, you are excused from any
8 further obligation here.

9 THE WITNESS: Thank you.

10 THE COURT: All right, Ladies and Gentlemen. This
11 is a good breaking point. We are going to recess for the
12 evening and we'll start again at 9:00 in the morning.

13 MR. GOLDBERG: Your Honor, before we recess, we have
14 now the binders for the demonstrative exhibits. We are actually
15 on track, as we had planned. We have two live witnesses
16 tomorrow. With both of them, there are demonstratives and we
17 asked the Court if the Court wanted eight and a half by elevens
18 of the demonstratives. The Court said yes. So we have binders
19 for Mr. Griffin and for the Court. So I wonder if I can hand
20 those off.

21 THE COURT: Yes.

22 MR. GOLDBERG: I'll do that now.

23 THE COURT: We're in recess until 9:00 tomorrow
24 morning.

25 (Court adjourned.)

1 STATE OF NEW MEXICO)
2 COUNTY OF SANTA FE) ss.

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I, BRENDA CASIAS, Official Court Reporter for the First Judicial District of New Mexico, hereby certify that I reported, to the best of my ability, the proceedings in D-101-CV-2022-00473; that the pages numbered TR-1 through TR-205, inclusive, are a true and correct transcript of my stenographic notes, and were reduced to typewritten transcript through Computer-Aided Transcription; that on the date I reported these proceedings, I was a New Mexico Certified Court Reporter.

DATED at Santa Fe, New Mexico, this 15th day of August, 2022.

ss // Brenda Casias
BRENDA CASIAS
New Mexico CCR No. 119
Expires: December 31, 2022