

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

UNITED STATES OF AMERICA

V.

LUKE RUSSELL COFFEE

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CASE No. 21-MJ-236

**OPPOSITION TO MOTION FOR EMERGENCY STAY AND FOR REVIEW OF RELEASE
ORDER**

A. Review is not necessary.

Judge Horan is an excellent Magistrate, and conducted a fair and impartial hearing and Government has present no factual or legal basis to question his decision. . Judge Horan heard the presentation of the Government and the presentation of the defense and easily Granted the Release of Luke Coffee. The Government spent all of its time trying the case but failed to address the issues.

B. The Government Failed to Present Any Evidence on Danger or Flight Risk.

Record shows that Government presented no evidence of danger to community or serious flight risk. That is why the Magistrate had no problem Granting Release because the Magistrate was presented no evidence by the Government to rule otherwise the Government presented no evidence, compelling or non-compelling, that defendant is a danger to the community, witnesses, or anyone and the Government presented no evidence, compelling or non-compelling, that defendant is a serious flight risk. Although the Government met its initial burden that there is probable cause for the charges by constantly replaying one very short and limited video, this was a Pretrial Release Hearing reviewing whether the defendant was dangerous to the community or a serious flight risk. The Government failed to produce any evident of either.

C. There is not emergency in this case so Counsel requests 30 days to prepare for a Hearing before the Court on this matter.

There is no emergency or urgency to make a decision on the Review of another Magistrate. The Defendant is in detention and his presence is not required until the Court decides how to proceed. The defense requests 30 days to prepare for a hearing before the Court on this matter.

The Government failed to prove that Luke Coffee was a flight risk or a danger to any person or the community. Luke Coffee has never been a violent man and has never committed any violent offense prior to the alleged assault on January 6, 2021.

D. Luke Coffee Cooperated with the FBI

January 13, 2021 Special Agent Mike Hillman of the FBI called Luke Coffee left a voicemail and then texted him.

- a. Luke Coffee voluntarily returned Special Agent Mike Hillman's call and text immediately and spoke on the phone to Special Agent Mike Hillman without an attorney. He interviewed about the events of January 6, 2021.
- b. According to Luke Coffee, Special Agent Mike Hillman told Luke on that call that, *"I wasn't a suspect."* and that *"...Looked like you were trying to stop it all."*
- c. Special Agent Mike Hillman said he would like to meet with Luke in person, and Special Agent Hillman also said, *"I'll be in touch"*.

E. Summary of Calls between Mike Hillman and Luke Coffee's Attorney Jim Burnham

Jim Burnham spoke with Special Agent Hillman on the phone on behalf of Luke Coffee 8 times in February 2021 before Coffee was turned in. It was not until February 24th at 5:00 PM that Special Agent Hillman told Burnham to turn Luke Coffee in. Burnham and Coffee complied with this request and turned Coffee in at 9 am the next day.

- February 2, 2021 – Special Agent Mike Hillman told Jim Burnham *"I don't think he was in the capitol."* *"I think it was a federal misdemeanor."*
- February 3, 2021 – Special Agent Mike Hillman told Jim Burnham that a *"charge decision had not been made."* And that the *"Public footage not bad."*
- February 6, 2021 – Jim Burnham checked in with Special Agent Hillman
- February 9, 2021 - Special Agent Mike Hillman told Jim Burnham Hillman that he had *"Not seen any violent posts by Coffee"*
- February 24, 2021 at 9:15 AM – Special Agent Hillman told Burnham there was *"no news yet"* regarding Mr. Coffee.
- February 24, 2021 at 12:30 PM – Special Agent Mike Hillman told Jim Burnham he was *"not 100% sure what the charges were."* *"decision in the next couple of days"*
- February 24, 2021 at 3:30 PM – Jim Burnham informed Special Agent Mike Hillman that Luke Coffee would be moving to 1113 Rim of the World, Tool, Texas, 75143 to live with his parents at their lake house.
- February 24, 2021 at 5:00 PM – Special Agent Mike Hillman called Jim Burnham and told Mr. Burnham that Luke Coffee needed to turn himself in the following morning (25th) at 9:00 AM

On February 25, 2021 at the same time that he voluntarily turned himself in Luke Coffee voluntarily signed a consent to search. In addition to voluntarily signing the consent to search, Luke Coffee informed Special Agent Hillman of the following:

- a. Coffee informed Special Agent Hillman that his residence was unlocked and gave Special Agent Hillman the apartment number.

- b. Coffee informed Special Agent Hillman that the key to his car was on the back tire of his vehicle.
- c. Coffee informed Special Agent Hillman that his cellphone was in the console of his vehicle.
- d. Coffee informed Special Agent Hillman that his backpack from January 6, 2021 was in the car with the cellphone.
- e. Coffee informed Special Agent Hillman that his car was in the parking garage of his residence at 3131 Main St.
- f. Coffee informed Special Agent Hillman that he would provide Special Agent Hillman with video previously requested by the FBI.

After Jim Burnham turned Luke Coffee on February 25, 2021 Jim Burnham spoke with Special Agent Mike Hillman on the phone and asked him if he thought Luke Coffee was a flight risk. Special Agent Mike Hillman responded by saying, “*so far no*” and informed Mr. Burnham that “*No one injured (by Coffee)*”

F. Luke Coffee was Pleading with the Crowd to Stop and Pray

Luke Coffee was a peace maker not a rioter. **Figure 5** from the Statement of Facts shows Coffee on the steps of the Capitol saying “Stop” 4 times and “Pray” 9 times.



Statement of Facts Figure 5

4:25 PM (Approximately): Luke Coffee Pleads with the Rioters to Stop and Pray.

- Coffee is saying: “Stop! Stop! Stop and pray! Pray! Stop! Pray! Pray! Pray! Pray! Pray! Pray! Pray! Pray! Pray!”? (this is audible)
 - Per the Social Media Video: *FULL FOOTAGE Patriots STORM U.S. Capitol (4K60fps).mp4* video at 1:14:16-1:14:40 (1 hour, 14 minutes, 16 seconds to 40 seconds)
 - Coffee shouts “stop” at least 4 times and “pray” at least 9 times while signaling to the mob to stop with his arms out.

The below screenshots of Luke Coffee are taken from the discovery video entitled: *FULL FOOTAGE Patriots STORM U.S. Capitol (4K60fps).mp4*. Mr. Coffee pleading with the crowd to stop and and pray multiple times.





In addition to pleading with rioters to stop as noted in the discovery video above, Luke Coffee prayed with the crowd per **figure 4** a picture of himself praying and saying “*Stop in the name of Jesus.*”



Statement of Facts Figure 4

G. Coffee Pleaded with the Officers to Stop 6 Times

In the Capitol surveillance camera footage from inside the archway (provided by the government in the discovery) Coffee is seen telling the officers to stop 6 separate times as he gets sprayed and hit by them (there is no audio on the video but you can read his lips).

Coffee Tells the Officers Stop #1

4:27 PM Luke Coffee walks up to officers and holds out his hand “*stop*”

(Not audible but you can infer from his hand gesture and read his lips in the Capitol video) for the 1st time.

- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 at the 12:15 (12 minutes and 15 seconds). You can read Luke’s lips in this video.

Coffee Tells the Officers Stop #2

4:28 PM Luke Coffee holds up his hand to stop for a 2nd time “stop.” (Not audible but you can infer from his hand gesture)

- Capitol Building Video:
COFFEE-0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:19 (12 minutes and 19 seconds). Luke Coffee says “Stop” again with hand up. You can read Luke’s lips in this video.

Coffee Tells the Officers Stop #3

4:28 PM Luke Coffee picks up the crutch and holds out his hand for a 3rd time “stop” (Not audible but you can infer from his hand gesture)

- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:23 (12 minutes and 23 seconds). Luke Coffee says “Stop” again with hand up and hand on the crutch. You can read Luke’s lips in this video.

Coffee Tells the Officers Stop #4

4:28 PM Luke Coffee is still holding the crutch and tells the officers to “stop” for a 4th time (Not audible)

- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:23 (12 minutes and 23 seconds). Luke Coffee says “Stop” a second time while still holding the crutch in one hand. You can read Luke’s lips in this video.

Coffee Tells the Officers Stop #5 (Crutch overhead)

4:28 PM Luke Coffee holds up the crutch above his head and says stop.

- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:27 (12 minutes and 27 seconds). Luke Coffee says “Stop” as lifts the crutch above his head. You can read Luke’s lips in this video.

Coffee Tells the Officers Stop #6 (Again with the crutch overhead)

4:28 PM Coffee still holding up the crutch above head and says stop again.

- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:30 (12 minutes and 30 seconds). Luke Coffee says “Stop” a second time while he is still holding the crutch above his head. You can read Luke’s lips in this video.

Coffee Turns to the Crowd with Crutch Over his Head and Again Says Stop

4:28 PM Coffee turns towards the crowd with the crutch over his head and

- says “*stop*” (But it is not audible)
- Capitol Building Video:
COFFEE -0074USCHBALowerWTerraceDoorExterior_2021-01-06_16h15min38s597ms.mp4 12:39 (12 minutes and 39 seconds). Luke Coffee turns to the crowd while still holding the crutch above his head. You cannot see his face, but he says stop again to the crowd.

Luke Coffee went to DC on January 6, 2021 to hear President Trump speak and to document and film the rally. Coffee did not arrive at the Capitol until approximately 4:25 which was hours after the initial rioters arrived. Throughout the day Mr. Coffee’s actions proved he was not a violent man but rather a peace maker. He consistently tried to stop the riots and prayed for peace.

The defendant, Luke Coffee, would request no less than 10 days to file a response to your motion, as his defense team will need to order an expedited transcript of the proceedings.

Both pre-trial services in NDTX and the presiding Magistrate Judge did not believe Mr. Coffee is a flight risk or a danger to the public. Magistrate Judge Horan released Mr. Coffee subject to certain conditions, including electronic monitoring.

The defendant, Luke Coffee, requests that the magistrate judge’s decision to release the defendant be upheld and the motion for emergency stay and review of release order be denied.

Respectfully submitted,

/s/ **Jim Burnham**

Jim Burnham

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