

JOSEPH HACKETT'S DETENTION ARGUMENT: GUNS, OPERATIONAL SECURITY, AND INVOLVEMENT IN KELLY MEGGS' PLANS FOR NANCY PELOSI

In a status hearing in the Oath Keeper conspiracy case on August 10, Kathryn Rakoczy revealed the government had provided "certain information" to defendants that might limit or shape defense theories. She then mentioned uncharged individuals or unindicted co-conspirators.

How Person Fifteen became D-2

Then yesterday, in a memo supporting continued pretrial detention for Joseph Hackett, the government rolled out a new way to refer to those who've entered into cooperation agreements against their former co-conspirators (and siblings): D-1 and D-4, as opposed to Person One, Person Two, and Person Ten.

D-1, who shared details of the organizational structure of the Florida Oath Keepers, may be Graydon Young, whom the indictment describes getting operational security instructions from Hackett shortly after he joined the Oath Keepers and who lives about 30 miles from Sarasota.

According to a defendant who has pled guilty pursuant to a cooperation plea agreement (and who will be referred to as D-1), Defendant Hackett was the "leader" of the Oath Keeper CPT5 group of approximately five men from the

Sarasota area. According to D-1, the organization's hierarchy had D-1 reporting to the CPT team leader (here, Hackett), who would report to the State lead (here, Kelly Meggs).

5 D-1 did not know what CPT stood for, but other Oath Keeper materials suggest it stood for "community preparedness team."

D-4, who shared details of what Hackett did on January 7, may be Caleb Berry, who drove to and from the insurrection from Florida.

According to a defendant who has pled guilty pursuant to a cooperation plea agreement (and who will be referred to as D-4), Defendant Hackett was one of the members of the Oath Keepers who deposited long guns at the Comfort Inn Ballston on January 5 and collected them on January 7.

[snip]

In other words, while Defendant Hackett had his phone with him at the Capitol – he is seen on surveillance video holding it up to take a picture or video, and he admitted to D-4 that he had recorded a video that he later deleted – he took substantial efforts to ensure that he would not be linked to the phone, and that the phone would not be linked to the Capitol attack.

[snip]

According to D-4, on January 7, 2021, while Defendant Hackett was in a car driving from Washington, D.C., to Florida, with co-defendant Kelly Meggs and others, he admitted that he had already deleted from his iPhone a video he had taken while inside the Capitol the prior day

But the numbering system is bound to make Oath Keepers and conspiracists like Darren Beattie, Tucker Carlson, and Glenn Greenwald more paranoid. That's because, if my assumptions above are correct, the counting appears to start with Young, not the first Oath Keeper known to enter a cooperation agreement, Jon Schaffer, who did so on April 14 (Young was second, Mark Grods was third, and Berry was fourth; the subtitle of this section is based on a wildarse guess that in this scheme, Grods, who was described before he flipped as Person Fifteen, would become D-2). That suggests someone else may have flipped, possibly between June 28 (when Grods pled) and July 7 (when Berry did).

Checking the East Door

The detention motion includes a long description of Hackett's attempts to use operational security while hanging out with a bunch of people who weren't, such as this picture showing him using his customary face covering while hanging out with a bunch of people who didn't.



It also elaborates on a narrative that had shown up in earlier detention motions. It describes Hackett moving inside the Capitol with (it says) Kelly Meggs and Kenneth Harrelson, from the Rotunda to outside of Nancy Pelosi's door. From there, Hackett walked back to the East Door of the Capitol, as if he was waiting for someone, and then returned to (the government presumes, though they may have video of this now from other defendants) Pelosi's door.

Attached as Exhibit 3 is a compilation

of Defendant Hackett's movements within the Capitol for the approximately 12 minutes he remained inside, as captured on surveillance video. Notably, he spent most of his time with his co-conspirators Kelly Meggs, Moerschel, and Harrelson. At around 2:45 p.m., Defendant Hackett left the Rotunda through the south door, headed towards the House of Representatives (and the office of Speaker Pelosi).

[snip]

Defendant Hackett was not visible on camera for approximately one minute. He then went to check on the exterior doors through which the group entered, before returning to his coconspirators south of the Rotunda, near the Speaker's office, where he remained, off camera, for approximately 5 minutes. This is the area and the time that Kelly Meggs and Harrelson were similarly not visible on surveillance video.

Exhibit 3 consists of 26 photos showing which of his actions from inside the Capitol were captured on CCTV – far more detail than the three paragraphs describing Hackett's movement included in the indictment.

146. After they penetrated the Capitol building, CROWL, WATKINS, SANDRA PARKER, Young, STEELE, KELLY MEGGS, CONNIE MEGGS, HARRELSON, HACKETT, DOLAN, ISAACS, MOERSCHEL, Berry, and the others in the Stack collectively moved into an area inside the building known as the Capitol Rotunda.

[snip]

155. At 2:45 p.m, KELLY MEGGS, CONNIE MEGGS, HARRELSON, HACKETT, DOLAN, MOERSCHEL, and Berry walked southbound out of the Rotunda and towards the House of Representatives.

[snip]

158. At 2:54 p.m. HACKETT and MOERSCHEL exited the Capitol.

After milling about the Rotunda, Hackett walks across it to talk to Meggs and Harrelson. Berry – who may be D-4, but who definitely has agreed to tell the government everything he knows – was present.

2:44:05 P.M. – Hackett walks north to join K. Meggs, Berry, and Harrelson to talk.



The detention memo suggests they – apparently including Berry and Connie Meggs, though the detention motion doesn't mention them – went from here to stand outside Pelosi's office, and then Hackett – apparently by himself – came back through the Rotunda, stood outside the East Door, looking outward, as if waiting to meet with someone.

2:46:10 P.M. – Hackett stands just inside the foyer by the east door and looks at the Columbus Door.



Hackett then enters back into the Capitol, goes back to where he (apparently) left Moerschel, Harrelson, and Meggs, along with Berry and Connie Meggs (though they aren't mentioned) and

then he and Moerschel exit the building.

2:46:45 P.M. – Hackett exits the Rotunda through the south door.

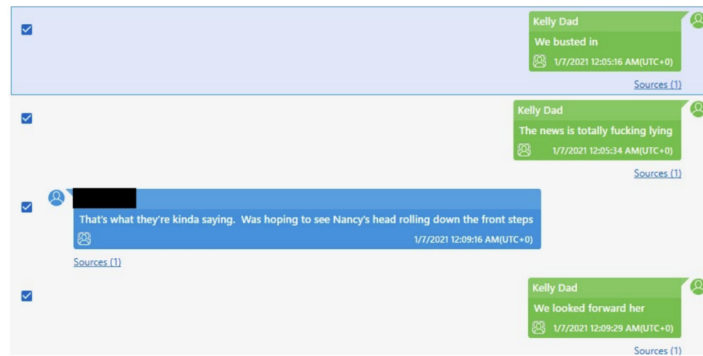


From 2:46:45 – 2:51:00 P.M., Hackett and Moerschel are not visible on CCTV.

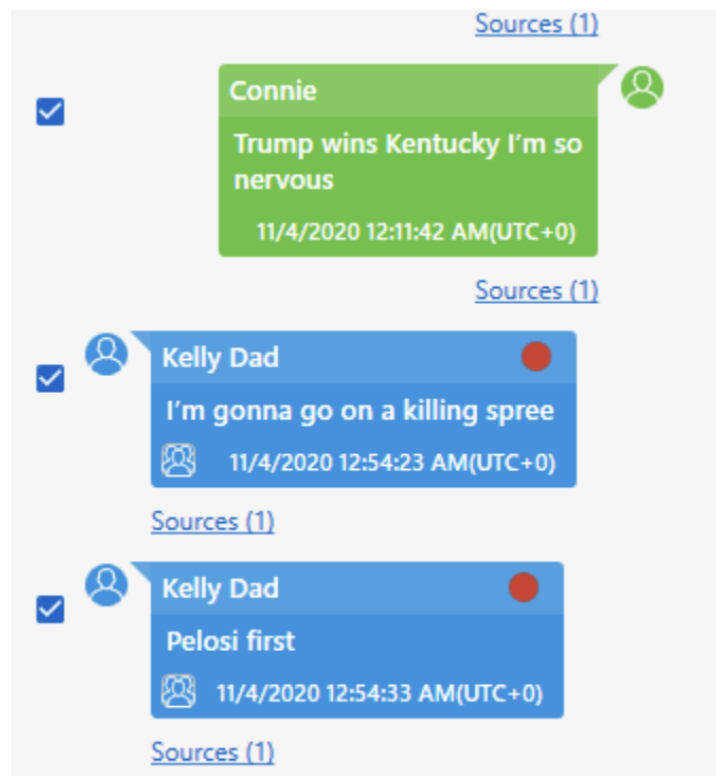
Joseph Hackett's detention motion is about Kelly Meggs

The government largely substantiates their argument that Hackett is too much a threat to be released with their evidence that he's a leader of an organized militia, armed, and went to great lengths – both in real time and after the fact – to obscure his actions. Hackett's actions inside the Capitol – unlike many of his co-defendants, he is not charged with an additional resisting cops or civil disorder charge for anything he did inside the building – would seem to add little.

The government gets there, repeatedly, by tying Hackett's own actions to those of Meggs, to whom (D-1 has testified) he reported in the Oath Keeper hierarchy. In Hackett's detention motion, for example, the government adds to a text they had included, in similar associative fashion, in Kenneth Harrelson's detention motion showing Meggs admitting that "we looked for[] her.



In Hackett’s detention memo, they show that *the night of the election* (they get the conversation from UTC wrong and falsely claim this happened very late the night of the election; it would have happened before polls closed in much of the country), Meggs was threatening to “go on a killing spree ... Pelosi first.”



And, almost gratuitously, the government uses a reference to the DC Circuit’s decision upholding Christopher Worrell’s detention as a way to remind Judge Amit Mehta that Meggs had purportedly orchestrated a plan with the Proud Boys.

In Worrell, the D.C. Circuit held that the “district court’s dangerousness determination was [not] clearly

erroneous," based in part on the defendant's "membership in and alleged coordination with the Proud Boys, some of whose members have been indicted for conspiring to attack Congress." 848 F. App'x at 5-6.8 The same heightened dangerousness applies here, as the actions of self-proclaimed members of the Proud Boys and Oath Keepers are similarly situated in terms of their dangerousness based both on their personal actions and their coordination with their coconspirators. And not only have 18 Oath Keeper members and affiliates (Defendant Hackett included) been indicted in this case, but there is also evidence of coordination between the Oath Keepers and the Proud Boys. (See Gov't Opp to Kelly Meggs' Motion for Pretrial Release (ECF 98) at 8 (quoting December 22, 2020, Facebook message: "we have made Contact with PB and they always have a big group")), and 10 (quoting December 25, 2020, Facebook message: "we have orchestrated a plan with the proud boys. I have been communicating with [redacted] the leader.").

It's as if to say that Hackett is dangerous by himself, but he's especially dangerous (or just as likely, important to flip) because he was part of what Kelly Meggs was involved with on the day of the insurrection.

The pictures included as an exhibit seem to suggest that not just Hackett – but also Connie Meggs (who would have spousal privilege but who also just got a new lawyer) and Caleb Berry, who may be D-4, a witness to efforts to try to destroy evidence about what happened during the insurrection – were witnesses to whatever Meggs was up to when he went to the office of the woman he threatened to kill on the night Biden won the election. What Hackett would know is why he went back to the door of the Capitol, as if

awaiting someone.

According to the government, that makes him dangerous and likely to obstruct the investigation.

Update: This analysis adds to the evidence that Berry is the guy standing by the stair doors at the QRF hotel, and therefore almost certainly D-4.

