

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 JACOB ANTHONY CHANSLEY,)
)
 Defendant.)

Case no. 1:21-cr-00003-RCL-1

*Let this be filed.
Roger C. Lindata
U.S. D.C. 2/3/21*

**DEFENDANT'S EMERGENCY MOTION FOR SUSTENANCE OR, IN THE
ALTERNATIVE, FOR PRE-TRIAL RELEASE**

Comes now Defendant, Jacob Anthony Chansley, by and through his undersigned counsel, and for his Emergency Motion for Sustenance or, in the Alternative for Pre-Trial Release, states to the Court as follows:

DEFENDANT-CHARGES AND BACKGROUND

- 1) Defendant is charged herein with:
 - a) Civil disorder;
 - b) Obstruction of an official proceeding
 - c) Entering and remaining in a restricted building
 - d) Disorderly and disruptive conduct in a restricted building
 - e) Violent entry and disorderly conduct in a Capitol building
 - f) Parading, demonstrating, or picketing in the Capitol Building.
- 2) All of the charges herein arose out of the events of January 6, 2021 at the U.S. Capitol.
- 3) Defendant is a long standing resident of Phoenix, Arizona with an established residence he shares with his mother.
- 4) Defendant is 33 years of age and has zero criminal history.
- 5) Defendant is a single person.

- 6) Defendant's hero and role model is Mahatma Gandhi, well known for employment of peaceful, non-violent means to achieve societal (often political) goals.

DEFENDANT'S FAITH AS A SHAMAN

- 7) Defendant is a long standing follower of the faith of Shamanism.
- 8) Shamanism is a faith recognized by the U.S. Government.
- 9) Shamanism is a system of religious practice. Historically, it is often associated with indigenous and tribal societies, and involves belief that shamans, with a connection to the otherworld, have the power to heal the sick, communicate with spirits, and escort souls of the dead to the afterlife. It is an ideology that used to be widely practiced in Europe, Asia, North and South America, and Africa. It is centered on the belief in supernatural phenomenon such as the world of gods, demons, and ancestral spirits.¹
- 10) The primary focus of North American shamanism is to heal.²
- 11) A **shaman** wears regalia, some part of which usually imitates an animal—most often a deer, a bird, or a bear. It may include a headdress made of antlers or a band into which feathers of birds have been pierced. The footwear is also symbolic—iron deer hooves, birds' claws, or bears' paws.
- 12) Based on Mr. Jacob Chansley's shamanic belief system and way of life, non-organic food, which contains unnatural chemicals, would act as an 'object intrusion' onto his body and cause serious illness if he were to eat it. An 'object intrusion,' is the belief that disease originates outside the body from unhealthy objects coming into the body. In shamanic

¹ <https://en.wikipedia.org/wiki/Shamanism>

² Id.

traditions, the body, mind, and soul are interconnected, and the well-being of all three are necessary for my client to be able to practice his faith.”³

- 13) During his January 6, 2021 appearance at the Capitol, Defendant was adorned sartorially with attire befitting his Shaman beliefs, replete with horns, fur, and visible but resplendent tattoos to which Defendant attributed meaning. As accessories, he carried a flag on a Shaman stick and a bullhorn (recognized to be an instrument designed to permit his voice to be heard).
- 14) As a result of his attire, Defendant became the focus of countless images published by mainstream media, social media, and personal sharing. In turn, images of the Defendant have become iconic in the sense they are indelibly linked to the events of January 6, 2021.

EVENTS OF JANUARY 6, 2021

- 15) On January 6, 2021, tens of thousands of Americans heeded the call of their President to appear in Washington, DC for a rally billed as one designed to support the President in saving our nation. For his words, actions, and inactions leading up to and on January 6, 2021, the former President has been impeached.
- 16) In the pending article of impeachment, it is alleged by our nation’s federal legislature that on January 6, 2021, President Trump repeatedly issued false statements asserting that the Presidential election results were the product of widespread fraud and should not be accepted by the American people or certified by State or Federal officials. Shortly before the Joint Session commenced, President Trump, addressed a crowd at the Ellipse in Washington, DC. There, he reiterated false claims that “we won this election, and we won it by a landslide”.

³ “Shamanism as the Original Neurotheology” by Michael Winkelman, published in Joint Publication Board of Zygon, 2004, <http://www.public.asu.edu/~atmxw/zygon.pdf>; and <https://www.encyclopedia.com/environment/encyclopedias-almanacs-transcripts-and-maps/shamanism-north-american-shamanism>

He also willfully made statements that, in context, encouraged—and foreseeably resulted in—lawless action at the Capitol, such as: “if you don’t fight like hell you’re not going to have a country anymore”. Thus incited by President Trump, members of the crowd he had addressed, in an attempt to, among other objectives, interfere with the Joint Session’s solemn constitutional duty to certify the results of the 2020 Presidential election, unlawfully breached and vandalized the Capitol, injured and killed law enforcement personnel, menaced Members of Congress, the Vice President, and Congressional personnel, and engaged in other violent, deadly, destructive, and seditious acts.

17) During his January 6, 2021 speech just prior to the counting of the electoral college votes, then said in salient part the following:

“...Now, it is up to Congress to confront this egregious assault on our democracy. And after this, we’re going to walk down, and I’ll be there with you, we’re going to walk down, we’re going to walk down. Anyone you want, but I think right here, we’re going to walk down to the Capitol, and we’re going to cheer on our brave senators and congressmen and women, and we’re probably not going to be cheering so much for some of them. Because you’ll never take back our country with weakness. You have to show strength and you have to be strong. We have come to demand that Congress do the right thing and only count the electors who have been lawfully slated, lawfully slated. I know that everyone here will soon be marching over to the Capitol building to peacefully and patriotically make your voices heard...

..It was going to be great and now we’re out here fighting...

... Today we see a very important event though. Because right over there, right there, we see the event going to take place. And I’m going to be watching. Because history is going to be made. We’re going to see whether or not we have great and courageous leaders, or whether or not we have leaders that should be ashamed of themselves throughout history; throughout eternity they’ll be ashamed...

...And you know what? If they do the wrong thing, we should never, ever forget that they did. Never forget. We should never ever forget...

...We will not be intimidated into accepting the hoaxes and the lies that we’ve been forced to believe...

... But it almost seems that they're all going out of their way to hurt all of us and to hurt our country. To hurt our country...

... And think of what you're doing. Let's say you don't do it. Somebody says, "Well, we have to obey the Constitution." And you are, because you're protecting our country and you're protecting the Constitution. So you are...

... You will have an illegitimate president. That's what you'll have. And we can't let that happen...

... So today, in addition to challenging the certification of the election, I'm calling on Congress and the state legislatures to quickly pass sweeping election reforms, and you better do it before we have no country left...

... Today is not the end, it's just the beginning...

... We must stop the steal and then we must ensure that such outrageous election fraud never happens again, can never be allowed to happen again...

... And the Republicans have to get a lot tougher, and so should the Democrats. They should be regulated, investigated, and brought to justice under the fullest extent of the law. They're totally breaking the law...

... Together, we will drain the Washington swamp and we will clean up the corruption in our nation's capital. We have done a big job on it, but you think it's easy. It's a dirty business. It's a dirty business. You have a lot of bad people out there...

... If we allow this group of people to illegally take over our country because it's illegal when the votes are illegal when the way they got there is illegal when the states that vote are given false and fraudulent information...

... Because nobody until I came along had any idea how corrupt our elections were...

... But I said something's wrong here, something is really wrong, can have happened...

... The best is yet to come...

... So we're going to, we're going to walk down Pennsylvania Avenue. I love Pennsylvania Avenue. And we're going to the Capitol, and we're going to try and give...

... We're going to try and give them the kind of pride and boldness that they need to take back our country...

... So let's walk down Pennsylvania Avenue...

... This is incredible...

- 18) Immediately following the words of the President referenced above, the Defendant, along with tens of thousands of other Americans, walked to the U.S Capitol Building.
- 19) By the time the Defendant arrived at the U.S. Capitol Building, the Capitol doors were open (actually held open by a policeman who stated in effect, if not verbatim, "the building is yours.")
- 20) On January 6, 2021, Defendant was not armed with a gun or knife or in possession of explosives; did not shroud his identity in secrecy, was not donning a bullet-proof vest, was not in possession of zip ties, or any instrument or device or property which would serve as indicia of nefarious motivations.
- 21) On January 6, 2021, Defendant did not engage in physicality with any other human being, most notably law enforcement and was not part of any organized group or organization acting in furtherance of scheme or artifice to overthrow the Government.
- 22) On January 6, 2021, Defendant did not destroy or cause harm to any person or property.
- 23) In fact, on January 6, 2021, Defendant was notably compliant with the President's post rally suggestion that it was time to go home, such as to cause the Defendant to shout at others in the Capitol Building that it was time to go home per the President's direction.
- 24) Defendant then returned to Phoenix, Arizona only to discover he was being sought by federal law enforcement personnel.
- 25) Defendant immediately made contact with the FBI and made immediate arrangements to and did in fact voluntarily and peacefully self-surrender to the Government in Phoenix, Arizona.

- 26) Once in custody of the Government, the Defendant was wholly compliant with and responsive to the FBI, speaking freely and voluntarily and emphasizing his presence at the Capitol on January 6, 2021 was a direct result of the call out from the President for help to save our nation.
- 27) While in Phoenix, Defendant was housed under the authority and domain of the U.S. Bureau of Prisons. At that time, Defendant made known to the Government the need by the Defendant for organic food and the intolerance of the Defendant's body to preservatives, dyes, pesticides, modified foods.
- 28) Defendant's physical repudiation of non-organic food is one which was disclosed as giving rise to bodily responses which are immediate and involve systemic responses that are not simply discomforting, but debilitating and, notably, dehydrating.
- 29) At his detention hearing conducted by a Magistrate Judge in U.S. District Court in Phoenix, the non-consumption of food by the Defendant then to date since commencement of Defendant's custody with at the federal facility in Phoenix was brought to light. The Magistrate Judge promptly directed the provision of organic food to the Defendant.
- 30) Thereafter, the Defendant remained in COVID-19 isolation until such time as Defendant passed a COVID-19 test and a TB test.
- 31) The Defendant was thereafter transferred to Washington, DC, only to ascertain the facility at which Defendant is detained would not recognize the Court directed protocols relative to the provision of organic food to the Defendant.
- 32) As a result, the Defendant has not been able to consume any food since the commencement of his stay in Washington, DC, being a period in excess of one week as of the date of the filing of the present motion.

- 33) It is understood the Defendant has lost weight in excess of twenty pounds during the last week.
- 34) The issue of dietary needs was raised with this Court during the Arraignment hearing conducted on Friday, January 29, 2021, at which time this Court directed counsel for Defendant to reach out to Eric S. Glover, General Counsel, District of Columbia Department of Corrections (“DC DOC”) to address the dietary needs of the Defendant.
- 35) Virtually immediately after the Friday afternoon Arraignment hearing herein, the undersigned counsel for Defendant left a detailed voice mail message with Mr. Glover. A detailed email was thereafter sent to Mr. Glover confirming the dietary needs of Defendant and specifically noting that the Defendant had not eaten since being transferred to Washington, DC.
- 36) Through a chain of email correspondence, it has become clear that the protocols in place at the DC DOC are such as to not permit the conditions precedent to approving organic food and causing same to be served to the Defendant are insufficient to meet the temporal urgency of the situation. A true and correct copy of the email chain of correspondence with Mr. Glover in this regard is attached hereto, incorporated herein by reference, and marked Exhibit A.
- 37) It is understood the physical condition of the Defendant is declining.
- 38) As of the morning of February 2, 2021, Mr. Glover informed Defendant’s undersigned counsel that the Defendant’s request for organic food was denied due to his failure to identify a “faith/belief” upon entering DOC’s custody and DOC’s Religious Services staff’s inability “to find any religious merit pertaining to organic food or diet for Shamanism Practitioner.” A

true and correct copy of the email chain of correspondence with Mr. Glover in this regard is attached hereto, incorporated herein by reference, and marked Exhibit B.

COVID-19 RELATED COMPLICATIONS

- 39) The COVID-19 Response Orders and protocols employed by the Courts, the DC DOC and the U.S. Department of Justice have greatly encumbered the ability of counsel for Defendant to have more than a couple of non-monitored telephone calls with the Defendant. While sufficient to permit engagement of counsel to be authorized, the wholesale absence of reliable and ready access on the part of Defendant to his counsel in an unmonitored format has made impossible the ability of the undersigned to streamline undertakings to address the dietary needs of the Defendant, the medical details corresponding to same and the spiritual, faith based component of same.
- 40) Further complicating matters are a host of added COVID-19 related issues which thwart, render woefully cumbersome, and to date obviate the ability of the undersigned counsel with the necessary unmonitored contact with Defendant such as to appropriately discharge his duties to the Defendant within a host of vital contemplated undertakings with the Government.
- 41) The Defendant, by and through his counsel, wishes to stress to the Court that the responsiveness of Mr. Glover has been appreciated and is recognized as being within the context of a situation which is not the norm.
- 42) The Defendant, by and through his counsel, wishes to stresses appreciation for the collaborative efforts and cooperation of the U.S. Department of Justice within the context of this situation.
- 43) That being said, the Defendant has not eaten food for over one week.

- 44) The DC DOC, while appropriately following its protocols and procedures, is clearly without capacity to simultaneously follow its protocols and procedures, and traverse the temporal period required to do so, and still garner access to sustenance to feed the Defendant before his physical condition spirals irreversibly into a medical abyss.
- 45) The U.S. Department of Justice has no control over the housing and feeding of the Defendant. The U.S. Department of Justice has requested of the Defendant, by and through his counsel, certain information which is one step in a multi-step process designed to permit the Defendant's counsel to fully posture his client under certain guidelines material to the present proceedings. Unfortunately, the dietary issues being experienced by the Defendant preclude accomplishing same; the absence of ready and reliable access to unmonitored communication by the Defendant with his counsel precludes accomplishing same; the COVID-19 related policies and procedures preclude in-person meetings to be conducted absent compliance with hurdles and hoops which render the ability to accomplish same for naught.
- 46) On a more practical level, the undersigned counsel is based in St. Louis, Missouri. COVID-19 related sensitivities abound such as to render commercial air travel not-recommended.
- 47) Most concisely, the totality of the circumstances, for which the Defendant seeks not to cast blame, renders impossible the ability of the Defendant to eat, confer with counsel, and otherwise take steps designed to foster fundamental due process considerations for the Defendant.

COUNTERINTUITIVE CONCURRENT PROSECUTION OF INCITER AND INCITED

- 48) The Government, by and through its legislative branch is prosecuting a former President for inciting while simultaneously, through the Department of Justice, prosecuting an incited Defendant herein.
- 49) This reality calls into focus the real quandary facing a Government whose intelligence relating to the underbelly of that which served as an impetus for its investigative efforts relating to January 6, 2021 is potentially undermined by the impeachment of a former President for, effectively, inciting that which serves as the basis for the charges brought against other law abiding citizens who heard the words of the former President, believed in the words of the former President and relied on the truth of the words of the former President.
- 50) In turn, the Government appears, in the case of Defendant herein and other peaceful citizens in like position, to be in the unseemly position of having to prosecute folks for taking heed of the call of the former President, believing the former President's words, and doing that which the former President asked to have done.
- 51) The Defendant is uniquely postured to assist the Government both through its Department of Justice and its legislative bodies, free of coercion or anything of a self-serving nature. The Defendant remains postured to move forward in this regard. It is understood the Government recognizes the need for counsel for Defendant to garner specific information from the Defendant and spend time with the Defendant to permit the Defendant to making certain decisions and grant knowing authority to his counsel regarding same.

ADVANTAGES OF PRE-TRIAL RELEASE

- 52) The Government's initial discovery disclosures to the Defendant support the proposition that the Defendant immediately and peacefully surrendered himself when he learned of interest

by authorities in him; has zero criminal history and was not violent or destructive on January 6, 2021.

53) Earlier concerns relating to the release of the Defendant prior to ongoing investigation and the then future inauguration have abated due to the conducting of the inauguration of President Biden and collaborative undertakings by the parties to date.

54) Other similarly charged Defendants involved in the January 6, 2021 appearance at the Capitol have been released from the custody of the Government pending trial.

55) The Government is understood to have a greater degree of comfort with the Defendant by virtue of the ongoing federal investigation into the events of January 6, 2021 in general and the Defendant in particular.

56) While the undersigned counsel has not had access to the Defendant to garner details and confirmation regarding a wide range of matters, it is understood that the Defendant does not travel internationally, possesses no passport, has no criminal history, professes non-violence as a core tenet (to the extent he captures and releases insects rather than swatting, killing, or injuring same), was not part of a grand scheme and artifice to overthrow the Government, and did not employ violence at any time on January 6, 2021.

57) The pre-trial release of the Defendant would not jeopardize the position of the Government or constitute a threat of any nature to the public, our nation, or the security of anyone.

58) At the same time, the release of the Defendant would obviate the need to address a worsening health situation for the Defendant and the employment of resources on the part of the Government to address same.

59) At the same time, the pre-trial release of the Defendant would serve the interests of the Government and the Defendant by permitting due process to be accorded unabated by the COVID-19 related and other issues.

60) At the same time, the pre-trial release of the Defendant will permit unmonitored access of the Defendant with his counsel, a development which would inure to the benefit of both the Defendant and the Government.

61) At the same time, the ends of justice are served by granting the Defendant's request for the pre-trial release of the Defendant.

WHEREFORE, Defendant prays this Honorable Court issue such order as the Court deems just and meet in the circumstances which will permit and foster justice to be served herein and to permit the Defendant to accorded life sustaining sustenance sought for ingestion, and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

KODNER WATKINS, LC

By: /s/ Albert S. Watkins

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CERTIFICATE OF SERVICE

Signature above is also certification that on February 2, 2020 a true and correct copy of the foregoing was electronically filed with the Clerk of the Court utilizing the CM/ECF system which will send notification of such filing to all parties of record.

