

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	Case No: 21-cr-118-RCL
v.	:	
	:	
	:	
ERIC GAVELEK MUNCHEL, and	:	
LISA MARIE EISENHART,	:	
	:	
Defendants.	:	
	:	

GOVERNMENT'S NOTICE OF FILING AND MOTION TO SEAL

The United States respectfully submits this Notice of Filing to complete the record with materials initially provided by undersigned counsel to the Chambers of Chief Judge Beryl A. Howell on February 4, 2021, and later to the Chambers of Judge Royce C. Lamberth on February 17, 2021. These materials were provided to the Court in deciding the government’s appeal of the detention hearing rulings to release the defendants that were made in Tennessee. It included a letter detailing the submission, a cell phone recorded video of approximately 50 minutes in duration taken by defendant Eric Munchel, eight Capitol building CCTV videos totaling approximately nine minutes, an unofficial rough transcript of the Munchel video, and two official transcripts from the detention hearing proceedings that took place in Tennessee. *See* Attachment 1 (February 17, 2021 letter to Judge Lamberth) and Attachment 2 (February 3, 2021 letter to Chief Judge Howell). Of the videos, the 50 minute cell phone video and two of the eight CCTV videos totaling approximately three-and-a-half minutes were disclosed to defense counsel in Tennessee and admitted as exhibits under seal in the underlying proceedings.

In providing the Court with the videos—to include the six Capitol building CCTV videos that were not part of the underlying record or yet₂ disclosed to the defense—undersigned counsel

mistakenly believed that all of the videos had already been disclosed to local defense counsel and were part of the factual record arising from the detention hearing in Tennessee and thus did not serve local defense counsel with the exhibits upon transfer of the case. The government has now made these materials available to defense counsel via USAF_x and at the request of defense counsel, the government is also mailing CDs of the material to defense counsel.

The United States further moves for this Court to issue an Order directing that the exhibits submitted to the Court—particularly, the nine videos and unofficial rough transcript of defendant Munchel’s 50 minute video—be placed under seal until further order of the Court. In support of its motion, the Government submits that the materials are part of an ongoing covert grand jury investigation. At this time, the government requests that the nine videos and the unofficial rough transcript of the 50-minute video be placed under seal because they, in substance, are part of, or relate to, this ongoing investigation. More specifically, disclosure of these materials through their inclusion on the public docket would endanger other aspects of the government’s ongoing investigation, including the destruction of evidence and the safety of potential witnesses. In particular, disclosure might alert individuals who are the subject of the investigation of the existence and extent of the investigation, and it might alert these same individuals of the particular methods being used by law enforcement to investigate their criminal activities. As such, disclosure would undoubtedly frustrate the investigation, likely cause some subjects of the investigation to flee and/or destroy evidence, and could endanger the safety of law enforcement agents and witnesses. Accordingly, these facts present an extraordinary situation and a compelling governmental interest which justify sealing of materials pertaining to this investigation that are being submitted at this time. *See Washington Post v. Robinson*, 935 F.2d 282, 289 n.10 (D.C. Cir. 1991); *United States v. Hubbard*, 650 F.2d 293, 316-17 (D.C. Cir. 1980).

Government counsel has consulted with opposing counsel. It is opposing counsel's position that these materials should not be incorporated into the record because they were submitted *ex parte*, however opposing counsel does not oppose the materials being placed under seal if the court incorporates them into the record.

WHEREFORE, for all the foregoing reasons, the government files the aforementioned Notice and respectfully requests that the nine videos and unofficial rough transcript of the 50 minute video be placed under seal until further order of the Court.

Respectfully submitted,

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By: /s/ Ahmed M. Baset

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THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

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Case No: 21-cr-118-RCL

v.

ERIC GAVELEK MUNCHEL, and
LISA MARIE EISENHART,

Defendants.

ORDER

Upon consideration of the Government’s Motion to Seal it is hereby

ORDERED that the exhibits submitted by the government to both Chambers—including the 50-minute video seized from defendant Munchel, eight Capitol building CCTV videos, and unofficial rough transcript of the 50-minute video—be sealed until further Order of this Court.

ORDERED that notwithstanding the sealing, the government may disclose the nine videos and unofficial rough transcript in furtherance of its law enforcement and prosecution needs and discovery obligations.

DATE

HONORABLE ROYCE C. LAMBERTH
UNITED STATES JUDGE for the
DISTRICT OF COLUMBIA

Certificate of Service

I HEREBY CERTIFY that I have caused a copy of the foregoing motion to be served by electronic means, through the Court's CM/ECF system, upon all parties of record.

/s/ Ahmed M. Baset

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February 17, 2021

Chambers for Senior Judge Royce C. Lamberth
United States District Court for the District of Columbia
Elijah Barrett Prettyman United States Courthouse
333 Constitution Avenue N.W.,
Washington, D.C. 20001

Dear Judge Lamberth:

The government provides the following supplemental exhibits for consideration in the detention-hearing appeals in the matters of *United States v. Eric Munchel* (21mj71-1) and *United States v. Lisa Eisenhart* (21mj71-2):

- Eric Munchel cell phone video (1 video lasting approximately 50 minutes);
- Senate Lobby hallway video (8 videos lasting approximately 9 minutes);
- Eric Munchel detention-hearing transcript (202 pages);
- Lisa Eisenhart detention-hearing transcript (173 pages).

To help with the Court's review, partial draft transcriptions of the video recordings are being provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ahmed M. Baset".

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February 3, 2021

Chambers for Chief Judge Beryl A. Howell
United States District Court for the District of Columbia
Elijah Barrett Prettyman United States Courthouse
333 Constitution Avenue N.W.,
Washington, D.C. 2001

Dear Chief Judge Howell:

The government provides the following supplemental exhibits in considering the detention hearing appeals in *United States v. Eric Munchel* (21mj71-1) and *United States v. Lisa Eisenhart* (21mj71-2):

- S. Exhibit 1: Eric Munchel cell phone video (1 video lasting approximately 50 minutes);
- S. Exhibit 2: Capitol and Senate Lobby hallway videos (8 videos lasting approximately 9 minutes);
- S. Exhibit 3: Eric Munchel detention hearing transcript (202 pages);
- S. Exhibit 4: Lisa Eisenhart detention hearing transcript (173 pages).

To focus your review, partial draft transcriptions of the video recordings are being provided.

Respectfully submitted,

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