

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

UNITED STATES OF AMERICA :
v. : **CRIMINAL NO. 21cr0006 (TJK)**
:
DOUGLAS AUSTIN JENSEN, :
Defendant. :

MOTION TO REVIEW DENTENTION WITHOUT BOND

Douglas Jensen, by and through his attorney, Christopher M. Davis, moves to have his detention without bond status reviewed. Jensen moves this Honorable Court to reimpose the conditions of release that were set in the NDIA at the time of his arrest. In support thereof, he states as follows:

PROCEDURAL HISTORY

1. On January 8, 2021, Doug Jensen was arrested in his home state of Iowa on an arrest warrant issued from the United States District Court for the District of Columbia by Magistrate Judge G. Michael Harvey in connection with a Criminal Complaint arising out of the riot at the United States Capitol building on January 6, 2021.

2. On January 11, 2021, a federal grand jury sitting in the District of Columbia returned a six-count Indictment charging Jensen with Obstructing a Law Enforcement Officer During a Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); Assaulting, Resisting, or Impeding a Federal Law Enforcement Officer, in violation of 18 U.S.C. § 111(a)(1); Entering and Remaining, Disorderly and

Disruptive Conduct inside a Capitol Building, in violation of 18 U.S.C. §§ 1752(a)(1)-(2); and Violent Entry and Disorderly Conduct, and Parading, Demonstrating and Picketing in a Capitol Building, in violation of 40 U.S.C. §§ 5104(e)(2)(A)-(G). (Dkt. 3).

3. Jensen appeared for Rule 5 proceedings in the Southern District of Iowa on January 12, 2021, in case Number 4:21-mj-11-HCA. The United States made a motion to detain the defendant without bond pending trial. The defendant was arguably subject to detention pursuant to 18 U.S.C. § 3142(f)(1)(E), which provides for detention in cases where a defendant committed a crime while in possession of a deadly weapon— and Jensen was in possession of his work knife when he is alleged to have committed the charged crimes.¹ Chief Magistrate Judge Helen C. Adams ordered Defendant’s temporary detention pending an identity and detention hearing. *Id.* (SDIA Dkt. 10). Defendant waived the identity hearing, but a detention hearing was held on January 19, 2021. *Id.* (SDIA Dkt. 14-16).

4. On January 21, 2021, Magistrate Judge Adams ordered Defendant released pending trial and established release conditions. *Id.* (SDIA Dkt. 17-18).² Magistrate Judge Adams stayed her ruling until January 27, 2021, to allow the

¹ The Bail Reform Act does not define the term “dangerous weapon,” nor is defendant aware of any case in this Circuit or any other that defines “dangerous weapon” as used in the Bail Reform Act. Courts have consistently defined “dangerous weapon” as an object that is either inherently dangerous or is used in a way that is likely to endanger life or inflict great bodily harm. See *United States v. Anchrum*, 590 F.3d 795, 802 (9th Cir. 2009); *United States v. Smith*, 561 F.3d 934, 939 (9th Cir. 2009) (en banc); *United States v. Sturgis*, 48 F.3d 784, 787–88 (4th Cir. 1995); *United States v. Gibson*, 896 F.2d 206, 210 & n.1 (6th Cir. 1990); *United States v. Guilbert*, 692 F.2d 1340, 1343 (11th Cir. 1982) (per curiam). “Inherently dangerous” weapons are those that are “obviously dangerous” such as “guns, knives, and the like.” *Smith*, 561 F.3d at 939 (quoting *United States v. Riggins*, 40 F.3d 1055, 1057 (9th Cir. 1994)).

² See, Exhibit 1, ORDER SETTING CONDITIONS OF RELEASE AND STAYING ORDER TO ALLOW FOR APPEAL

United States an opportunity to appeal to this Court pursuant to 18 U.S.C. § 3145(a). An Emergency Motion Stay and Review Release Order was filed by the United States on January 22, 2021. See, Dkt. 5. Mr. Jensen remained in custody and was transported to the District of Columbia by the United States Marshal Service.

5. Mr. Jensen's indictment has been superseded twice since his release conditions were set in Iowa.³ The new charges are basically additional ways to charge the same conduct that he is alleged to have engaged in on January 6, 2021. One of the added counts, Obstruction of an Official Proceeding and Aiding and Abetting, in violation of Title 18, United States Code, §§ 1512 (c)(2) and 2, carries a maximum sentence of 20 years and drives his sentencing guideline range.⁴

6. Mr. Jensen's first appearance in this District was on February 23, 2021. At that time, he entered a plea of not guilty and agreed to detention without bond, specifically reserving his right to revisit this issue when his counsel became more familiar with the facts and evidence in the case. This Court accepted Jensen's agreement to detention without bond, finding that though there was no presumption of detention, his detention was warranted based on the facts described in the government's Emergency Motion Stay and Review Release Order. Dkt. 5. Jensen has remained in detention on a finding of clear and convincing evidence that no condition or combination of conditions of release will reasonably

³ The second superseding indictment is simply characterized as an "Indictment." See, Dkt. 17.

⁴ A preliminary calculation of the defendant sentencing guideline range starts and basically ends with U.S.S.G. § 2J1.2. This results in a worse case guideline range of 41 to 51 months if Jensen is credited with acceptance of responsibility.

assure the safety of the community. *See*, Exhibit 2, Order of Detention filed on February 23, 2021.

7. Mr. Jensen now requests release to the conditions that were set in the NDIA. *See*, Exhibit 1. He addresses the relevant facts and issues as follows.

ARGUMENT

8. In one's wildest imagination, no one could have predicted the events of late 2020, culminating on January 6, 2021. Neither Alex Huxley's *Brave New World* (1932) nor George Orwell's *Nineteen-Eighty-Four* (1949), or for that matter, any futuristic novel since then would come close to foreseeing this future now present. A billionaire reality TV show host turned president becoming the savior to a disillusioned/pandemic-weary, largely blue-collar working-class middle America. The internet, with its lightning speed, and few if any reality checks, spawned yet an even more bizarre offshoot, QANON - described as an American far-right conspiracy theory alleging that a cabal of Satanic, cannibalistic pedophiles run a global child sex trafficking ring and conspired against former President Donald Trump during his term in office. The media lies, the government is corrupt, and the election was stolen was the message.

9. It is against this backdrop, Douglas Jensen went to the U.S. Capitol to observe what he thought was going to be "The Storm", the moment all those with ideologies at odds with what he was hearing and reading on the internet were going to be arrested. He went on his own - to observe.

10. This Court found that Mr. Jensen should be detained based on

fundamental factual conclusions contained in the government's Emergency Motion Stay and Review Release Order, that, among other reasons, Jensen unlawfully entered the Capitol, armed with a knife, refused to obey orders to leave and led a mob in a chase after Officer Goodman of the Capitol Police. The Court also found that Jensen wanted to participate in an event that he thought was going to result in the arrest of the Vice President and members of Congress, to prevent the inauguration of Joseph Biden. Mr. Jensen respectfully disagrees with those conclusions.

11. Doug Jensen was not an intended part of any group or mob at any time that day. He simply went to observe "The Storm." He was at the front of the crowd, but in no way leading anyone. He was in front of everyone for the now disclosed silly reason to get Q recognized for "The Storm" that was about to take place. A fair review of the video clip capturing the events of that day demonstrates that Jensen was on his own and moved on his own, irrespective of the others.⁵ He never touched anyone in an aggressive manner. When pushed back by Officer Goodman, he just stands there and looks at him. Even when threatened by Officer Goodman, armed with his baton hovering over Jensen's head, Jensen simply states "I will take it for my country." As misguided as he was, he believed he was a patriot waiting to observe the events anticipated by "The Storm." To be certain, Jensen refused to obey Officer Goodman's order to stop and leave. And he did continue to follow him up the steps inside the Capitol. However, at one point, Jensen followed

⁵ Undersigned will provide Chambers with a copy of the video discussed in advance of the hearing.

Goodman up the steps at Goodman's suggestion. The United States concedes this point in its motion; "*Officer Goodman baited Defendant into continuing to follow him – luring Defendant and the mob away from the Senators....*" See, Dkt 5 at 11 (emphasis added). But Jensen neither threatened physical harm to anyone nor did he destroy any property. He never even planned to go to the Capitol, and certainly did not plan to "arm himself" and "violently" interfere with governmental functions. As odd as it sounds, he was there to observe. He told this to the FBI when he voluntarily met with them and described what occurred – on video.⁶ He told them he had his work pocketknife on him for protection when he went to the Trump rally preceding the march to the Capitol. There had been clashes on the streets of DC during a late 2020 Trump rally. Simply put, he did not have his work pocketknife to arm himself in a violent attempt to overthrow the government.

12. Doug Jensen became a victim of numerous conspiracy theories that were being fed to him over the internet by a number of very clever people, who were uniquely equipped with slight, if any, moral or social consciousness. Jensen is a blue-collar union laborer who has been supporting himself since the age of 16. He has lived with his wife since he was 17 years old. He has lived in Des Moines, Iowa his entire life. He is a devoted father, with minor children. Jensen's initial attraction to QANON was its stated mission to eliminate pedophiles from society. A fiercely protective family man, this was a powerful theme for him to latch onto. This played into Jensen's unique background. The product of a dysfunctional

⁶ Counsel can make a copy of this video available to the Court, if requested.

childhood, he spent the majority of his childhood in foster care.⁷ For reasons he does not even understand today, he became a “true believer” and was convinced he was doing a noble service by becoming a digital soldier for “Q.” Maybe it was mid-life crisis, the pandemic, or perhaps the message just seemed to elevate him from his ordinary life to an exalted status with an honorable goal. In any event, he fell victim to this barrage of internet sourced info and came to the Capitol, at the direction of the President of the United States, to demonstrate that he was a “true patriot.” Six months later, languishing in a DC Jail cell, locked down most of the time, he feels deceived, recognizing that he bought into a pack of lies. And perhaps most hurtful to him is that his family, whom he has always worked at least one if not two jobs, is now suffering extreme financial hardship as a result of his unanticipated detention. He came to DC to support the president; he did not foresee the destruction of his family. This love of family is the anchor that has brought Doug Jensen full circle.

13. On the facts of Jensen’s case, he respectfully disagrees with the conclusion that by clear and convincing evidence, there are no conditions or combination of conditions of release that will reasonably assure the safety of the community. His behavior at the Capitol did not involve a violent touching of anyone, even acknowledging the apparent tension between the government and the defense interpretations of what actually occurred on January 6, 2021.⁸ The

⁷ Jensen’s mother was a diagnosed paranoid schizophrenic who was institutionalized over 30 times during his formative years.

⁸ To detain Mr. Jensen would be at odds with many other Capitol rioter cases where defendants, entered the Senate Chamber (leafing through documents and destroying property), engaged in physically assaultive behavior, and carried true dangerous weapons for the purpose of harming people.

conditions set in the NDIA eliminate concerns over influence by the internet, not that that is a viable concern anymore. Allowing Mr. Jensen to go to work and remain in home detention more than adequately satisfies any concern for community safety.⁹ Perhaps most important is Doug Jensen's love and concern for his family. This is the anchor that the Court can count on to assure the safety of the community. It is the wakeup call that ended his victimization. In addition to the conditions set by the SDIA, counsel would also suggest mental health treatment as deemed warranted by Pre-Trial Services.

14. The Bail Reform Act of 1966 states, "[t]he law requires reasonable assurance [,] but does not demand absolute certainty" that a defendant will comply with release conditions because a stricter regime "would be only a disguised way of compelling commitment in advance of judgment." *United States v. Alston*, 420 F.2d 176, 178 (D.C. Cir. 1969). In *United States v. Munchel*, a recent Capitol rioter case decided by the D.C. Circuit, the Court held that the District Court should consider whether a defendant poses an articulable future threat to the community in view of his conduct on January 6 and the particular circumstances of January 6. The Court went on to find that the District Court based its dangerousness determination on a finding that alleged conduct indicates that he is willing to use force to promote his political ends," and that "[s]uch conduct poses a clear risk to the community." *United States v. Munchel*, 991 F.3d 1273, 1283 (D.C. Cir. 2021). *Munchel* was also in possession of a dangerous weapon (a taser gun) as he rummaged through the

⁹ For additional conditions of release, see exhibit 1.

Senate Chamber, with zip ties attached to his belt. The D.C. Circuit found that this did not demonstrate a future threat to the community, remanded the case back to the District Court where *Munchel* was ultimately released on conditions less stringent than the conditions detailed in the SDIA release order.

15. Mr. Jensen's wife is also willing to serve as a third-party custodian. She is prepared to testify at a hearing on this motion and also drive to DC, pick up Mr. Jensen and return to the family home in Des Moines, where he would remain under house arrest with other conditions as outlined above.

16. Finally, Mr. Jensen needs to get his affairs in order in the event the parties arrive at a disposition in his case. He has exposure, but it is relatively minor considering the cases that come through U.S. District Court. He just needs time to organize his affairs, work pending resolution of his case (one way or another), and get his union health insurance extended to cover his family. He would also like to have opportunity to voluntarily surrender, if convicted. This would save substantial judicial resources and is not out of line for cases with this type of exposure. Voluntary surrender has an enormous impact on an inmate's security level. And with the recently enacted FIRST STEP ACT OF 2018, and the availability of Earned Time Credits (ETC's), his security level will impact where he is housed and possibly his eligibility for various programming options.

WHEREFORE, Mr. Jensen moves this Honorable Court to give him a chance and release him on conditions pending resolution of his case.

Respectfully submitted,

/s/

Christopher M. Davis #385582
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Suite 202
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202.234.7300

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was served upon all counsel of record via the Court's CM/ECF System on this 7th day of June 2021.

/s/

Christopher M. Davis

UNITED STATES DISTRICT COURT

SOUTHERN

District of

IOWA

United States of America

v.

**ORDER SETTING CONDITIONS
OF RELEASE****AND STAYING ORDER TO ALLOW FOR APPEAL**

Douglas Austin Jensen

Case Number: IASD: 4-21-MJ-00011-HCA
DDC: 1-21-CR-00006-TJK

Defendant

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. Attorney in writing before any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall appear as directed : at the U.S. Courthouse in Washington, DC.
Contact Clerk of Court 202-354-3114 for further instructions and to make arrangements for videoconference Arraignment.

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (☒) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- (☐) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of _____ dollars (\$ _____)
in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community. IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- (✓) (6) The defendant is placed in the custody of:

(Name of person or organization) April Jensen

(Address)

(City and State) _____ (Tel. No.) provide to USPO

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

USPO or Defendant's counsel shall arrange for Ms. Jensen Signed: _____

to sign at Third Party Custodian, and give her a copy.

She shall sign a copy of this Order by January 25, 2021.

Custodian or Proxy

Date

- (✓) (7) The defendant shall:

- (✓) (a) report to the Pretrial Services Office, telephone number 525-284-6207, not later than immediately upon release.
- () (b) execute a bond or an agreement to forfeit upon failing appear as required the following sum of money or designated property: _____
- () (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described _____
- () (d) execute a bail bond with solvent sureties in the amount of \$ _____
- (✓) (e) maintain or actively seek employment.
- () (f) maintain or commence an education program.
- (✓) (g) surrender any passport to: USPO
- (✓) (h) obtain no passport.
- (✓) (i) abide by the following restrictions on personal association, place of abode, or travel: Travel restricted to the Southern District of Iowa and District of Columbia for Court Appearances Only, unless prior approval obtained from USPO
- (✓) (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: anyone identified by the U.S. Government, and anyone who participated in the protest and riot at the U.S. Capitol on January 6, 2021
- (✓) (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: as directed by USPO
- () (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____
- () (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the U.S. Probation Office. All costs will be paid by the U.S. Probation Office provided the defendant is making satisfactory progress towards goals set by the supervising officer. Within 60 days of the date of this Order, the Court will be provided an update on the defendant's status and progress towards community placement.
- (✓) (n) refrain from possessing a firearm, ammunition, destructive device, or other dangerous weapons.
- (✓) (o) refrain from (✓) any () excessive use of alcohol.
- (✓) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- (✓) (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.
- (✓) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.
- (✓) (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.
- (✓) (t) participate in one of the following location restriction programs and comply with its requirements as directed. (CHECK ONE):

() (i) Curfew: You are restricted to your residence every day () from _____ to _____, or () as approved by the probation officer or supervising officer, or

(✓) (ii) Home Detention: You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the probation office or supervising officer; or

() (iii) Home Incarceration: You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the Court.

(✓) (u) submit to the following location monitoring technology and comply with all of the program requirements and instructions provided. The defendant shall pay all or part of the location monitoring cost as directed by the officer. If allowed to self-surrender and still on active location monitoring, the defendant shall report to the Probation Office, as directed, for removal of equipment. (CHECK ONE):

(✓) Technology as directed by USPO

() Radio Frequency (RF) monitoring

() Global Positioning Satellite (GPS)

() Voice Recognition

(✓) (v) report as soon as possible, to the pretrial services office or supervising officer any contact with law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(✓) (w) permit a Probation Officer to visit him or her at any time at home or other approved residence.

(✓) (x) submit to substance abuse and mental health screening as directed by the pretrial services office.

(✓) (y) Defendant shall take medication as prescribed by any physician, psychiatrist, or health-care provider. Defendant shall not take medication that is not prescribed to him.

Defendant shall not access or utilize internet-capable devices, including a cell phone.

Any access to the Internet, directly or indirectly (through devices belonging to others, or in public spaces) is prohibited. USPO shall monitor for Defendant's Internet usage, through monitoring software, if necessary.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgement of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

USPO shall obtain Defendant's signature on a copy of this Order, and provide a copy to him, and to the Third-Party Custodian.

USPO shall arrange for electronic monitoring equipment for Defendant to be attached when he is released from custody.

Signature of Defendant_____
Address_____
City and State_____
Telephone

This Order is stayed until 4:00pm, CST, January 27, 2021, to allow the Government time to appeal. If the Government does not appeal this order by then, the USMS is ordered to release the Defendant after electronic monitoring equipment is installed by USPO.

Directions to United States Marshal

- (✓) The defendant is ORDERED released after processing.
- () The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: January 21, 2021_____
Signature of Judicial Officer

U.S. Magistrate Judge Celeste F. Bremer
Name and Title of Judicial Officer

UNITED STATES DISTRICT COURT

for the
District of ColumbiaUnited States of America
v.
DOUGLAS AUSTIN JENSEN

Defendant)
)
) Case No. 21-cr-6
)
)

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

- ☒ Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
☐ Motion of the Government or Court's own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

- ☐ **A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2)** (*previous violator*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:
- ☐ **(1)** the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
 - ☐ **(a)** a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; **or**
 - ☐ **(b)** an offense for which the maximum sentence is life imprisonment or death; **or**
 - ☐ **(c)** an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**
 - ☐ **(d)** any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**
 - ☐ **(e)** any felony that is not otherwise a crime of violence but involves:
 - (i)** a minor victim; **(ii)** the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921);
 - (iii)** any other dangerous weapon; or **(iv)** a failure to register under 18 U.S.C. § 2250; **and**
 - ☐ **(2)** the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**
 - ☐ **(3)** the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; **and**
 - ☐ **(4)** a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

- ☐ **B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3)** (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:
- ☐ (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
 - ☐ (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
 - ☐ (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
 - ☐ (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
 - ☐ (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

☐ **C. Conclusions Regarding Applicability of Any Presumption Established Above**

- ☐ The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis, with the evidence or argument presented by the defendant summarized in Part III.C.
- ☐ The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted for the reasons summarized in Part III.

OR

- ☐ The defendant has not presented sufficient evidence to rebut the presumption. Moreover, after considering the presumption and the other factors discussed below, detention is warranted for the reasons summarized in Part III.

Part III - Analysis and Statement of the Reasons for Detention

- A. After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:
- ☒ By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
 - ☐ By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.
- B. In addition to any findings made on the record at the hearing, the reasons for detention include the following:
- ☒ Weight of evidence against the defendant is strong
 - ☒ Subject to lengthy period of incarceration if convicted
 - ☒ Prior criminal history
 - ☐ Participation in criminal activity while on probation, parole, or supervision

- ☐ History of violence or use of weapons
- ☐ History of alcohol or substance abuse
- ☐ Lack of stable employment
- ☐ Lack of stable residence
- ☐ Lack of financially responsible sureties
- ☐ Lack of significant community or family ties to this district
- ☐ Significant family or other ties outside the United States
- ☐ Lack of legal status in the United States
- ☐ Subject to removal or deportation after serving any period of incarceration
- ☐ Prior failure to appear in court as ordered
- ☐ Prior attempt(s) to evade law enforcement
- ☐ Use of alias(es) or false documents
- ☐ Background information unknown or unverified
- ☐ Prior violations of probation, parole, or supervised release

C. OTHER REASONS OR FURTHER EXPLANATION:

The defendant's evidence/arguments for release:

At this time, Mr. Jensen does not contest the Government's request that he be detained.

Nature and circumstances of offense:

The nature and circumstances of the offense charged, Mr. Jensen's alleged role in the violent assault on the United States Capitol that briefly interrupted the peaceful transfer of power in our country, are gravely serious. The grand jury has charged Mr. Jensen with, among other things, obstructing an official proceeding under 18 U.S.C. Section 1512(c)(2). That offense carries a maximum sentence of 20 years in prison. And the proceeding that was occurring on that day was Congress's certification of the vote count of the Electoral College for the 2020 Presidential Election. Mr. Jensen allegedly travelled halfway across the country from Iowa to the District of Columbia, attended a rally in support of former President Trump, joined rioters by climbing through a broken window to enter the Capitol while armed with a knife, led a mob chasing Capitol Police Officer Eugene Goodman up a flight of stairs in a menacing fashion, threatened to take the officer's baton, and refused to obey the officer's lawful orders to stop and leave. This factor weighs in favor of detention.

The strength of the government's evidence:

The strength of the government's evidence is overwhelming, given that it has proffered photos and links to video of the incident. This factor weighs in favor of detention.

The defendant's history and characteristics, including criminal history:

Mr. Jensen's criminal history is not too serious, but includes four criminal convictions, including one for domestic assault. He did voluntarily contact law enforcement and submit to an interview about his conduct on January 6. But the government proffers that Mr. Jensen's actions that day were motivated by conspiracy theories that, in Mr. Jensen's words, led him to be "all about a revolution" against the lawful government of the United States. Indeed, Mr. Jensen allegedly told law enforcement that he believed in preventing the election of now-President Biden from being certified by Congress, and that he was present in the Capitol to participate in an event he thought would result in the arrest of Members of Congress and Vice President Mike Pence. Although President Biden's victory has now been certified by Congress and he has been sworn into office, at this point the Court has no basis to conclude that Mr. Jensen's interest in "revolution" against the United States government and his willingness to use force to accomplish that goal have come to an end. On this record, this factor weighs in favor of detention.

The defendant's dangerousness/risk of flight.

For all the reasons explained above, Mr. Jensen poses a serious risk of danger to the community. This factor weighs in favor of detention.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: February 23, 2021

United States District Judge