

June 13, 2021

The Honorable Timothy J. Kelly
U. S. District Court for The District of Columbia
E. Barrett Prettyman U. S. Courthouse
333 Constitution Avenue, N. W.
Washington, DC 20001

IN RE: **UNITED STATES OF AMERICA v. NORDEAN**

Dear Judge Kelly:

We the undersigned, each, individually, and also as a united group of steadfast American Citizens come before you today by way of this Petition to beg your indulgence and ask that you reconsider the decision and set aside the verdict reached regarding the continued and ongoing detainment and confinement of **Mr. Ethan Nordean.**

Mr. Nordean, as you recall was taken into custody and arrested on Wednesday, January 6, 2021. He, along with thousands of other citizens was exercising his First Amendment Right, afforded to him under The Constitution of The United States of America to peaceably assemble, and to petition the Government for a redress of grievances. Period. The Protest was a mostly peaceful protest.

Mr. Nordean is a father, a son, a husband, a brother, a Patriot. He is a man who deeply loves his country, and everything it stands for. He is proud to be an American. He enjoys the rights and privileges being an American Citizen afforded to him, by the blood, sweat and tears of the millions of Patriotic Citizens who came before him, and no doubt will come after him.

The American Citizens who attended the Protest on January 6, 2021 were there of their own free will. They were not brain-washed; nor were they forced or coerced to be there. Free will with which we have all been endowed by our Divine Creator.

Should there be any question whether Donald J. Trump, then President of the United States could force anyone to attend this peaceful protest? Could Mr. Ethan Nordean – father, son, husband, probably an UNKNOWN man to many of the thousands of attendees of this peaceful protest force anyone to be there against their will? Or were they there of their own volition? More likely than not, the latter is true.

It would seem that there was a rush to judgment by some Federal Agencies, in their zest and their zeal to apprehend people or persons responsible for the aftermath of the peaceful protest. In their far and over-reaching authority, using information obtained by them, from their sources, or shared between agencies, they quickly rounded up members of groups who had been mentioned in the media as being members of “Far-right Extremist” Groups. The FBI and DOJ, even went so far as to make a pre-emptive strike, taking into custody another man Enrique Tarrío, BEFORE the protest of January 6. Mr. Ethan Nordean **has not ever been**, NOR is he currently a member of any Far-right OR Extremist group. Even more disturbing, it has come to light, that the Prosecution withheld exculpatory evidence from Mr. Nordean’s Defense Counsel. This is tantamount to prosecutorial misconduct, and should demonstrate, just how far the FBI and DOJ are willing to go to stack the deck in their favor.

Much has been made about the so-called, “Storming of The Capitol”. Although this is the most recent example, it is certainly not the first time that something like this has happened. At least ten other times during the history of our country between the years 1814 – when on August 24, 1814 invading British Troops marched into Washington, DC and set the U. S. Capitol ablaze. They also set fire to the Presidents’ Mansion and other U. S. Landmarks leaving the Capital city in ruins – to 1970 when The Weather Underground planted a series of explosives around Washington, DC. On March 1, 1954 four (4) Puerto Rican separatists entered the House Floor during an upcoming vote. The Puerto Rican Nationalists, armed with handguns, shot indiscriminately into The House, wounding five Congressmen. November 7, 1983 there was a bombing outside of the Chamber of the U. S. Senate causing \$250,000 in damages. After the 9/11 attacks in 2001, deadly bacteria Anthrax was found on Capitol Hill, including in the office of Senate Majority Leader Tom Daschle. Senator Patrick Leahy was also sent Anthrax spores.

And who could EVER forget, the true insurrection, which occurred on October 4, 2018. Taking place during the Confirmation Hearing of Brett Kavanaugh. Senator Diane Feinstein invited Alyssa Milano – to be her “guest”. Anti-Kavanaugh protesters took over the Hart Senate Office Building Atrium on Capitol Hill, Senators were under assault; Jeff Flake was quite literally held hostage by rage-filled, screaming women in an elevator, we had Handmaids in full regalia, and who can even remember how many times the proceedings were interrupted by screaming and unruly protesters, right in the Judicial Chambers. MORE than 300 persons were taken into custody.

While this is the most recent time the U. S. Capitol has weathered political upheaval, it most certainly IS NOT the only time. NOR was it, as many believe, the most violent. In actuality only ONE PERSON WAS “KILLED”. An unarmed, female veteran, who was shot by a U. S. Capitol Police Officer.

You cited some reasons for your decision as, Destruction of Federal Property, Facilitation of Political Violence, and you determined that, “No conditions or combination of conditions outside prison would reasonably assure the safety of any other person or the community.” As noted previously, Mr. Nordean possesses a great respect for this country. He is a Patriot in the truest sense of the word. Without direct, irrefutable, first-hand knowledge, there can be NO ASSUMPTION MADE by anyone that Mr. Nordean participated in the “Destruction of Federal Property.” This is aberrant to his nature, it is an affront to his beliefs and it is an attack on his character

Rest assured, Mr. Nordean poses no threat to anyone, any institution, any rule of law, any thought, any feeling or any social construct which any person or individual may hold near and dear to their existence.

Your Honor, with all due respect, time is of the essence regarding this matter. It has been reported by at least two verifiable sources that Mr. Nordean, as well as a number of others taken into custody on January 6, 2021, has been mistreated and abused by the guards.

For your reference, I provide:

Exhibit "A"

An article published by, "Insider", April 10, 2021.

~ "A Proud Boys leader is arguing he shouldn't be sent back to jail, since other accused Capitol rioters are being beaten and threatened by guards.

An alleged Capitol rioter who is out on bail does not want to go back to jail, court documents show.

His attorneys argued that other defendants charged in the Capitol riots have been abused by guards.

Nordean, a Proud Boys leader, was released from jail in March.

Lawyers for a self-proclaimed "Sergeant of Arms" of the far-right Proud Boys asked a federal judge to keep his client out of jail, in part because other accused Capitol rioters have alleged abuse and mistreatment behind bars.

In a court filing on April 8, which was first reported by Law and Crime, lawyers for 30-year-old Ethan Nordean cited a recent Politico article, (3) describing alleged violence other Capitol siege defendants have experienced from guards.

According to the article, one defendant told a judge that another defendant "was severely beaten by correctional officers, [is now] blind in one eye, has a skull fracture and detached retina." The defendant reportedly added that many other of the accused Capitol rioters have experienced violence, threats, and verbal harassment from the guards — including one episode where a guard said, "I hate all white people and your honky religion."

A judge released Nordean — who is also known as Rufio Panman — on bail in March, according to court documents. He is charged with a slew of offenses related to the January 6 insurrection, including conspiracy, obstruction of law enforcement during civil disorder, destruction of government property, and disorderly conduct. Nordean has pleaded not guilty to the charges and is awaiting trial.

Nordean's lawyers also said in the filing that they have personally learned of another Capitol riot defendant who was neglected, humiliated, and threatened by the guards at a DC facility.

According to the documents, the unidentified defendant said guards would flash lights in his eyes at night and prevent him from sleeping, and that he was placed in a cell with a broken toilet and given baby wipes instead of a shower.

"Guards would snap photographs of the defendant with their phones without his consent, which they appeared to be sharing with other parties through their phones," Nordean's lawyers wrote.

Prosecutors have sought to put Nordean behind bars, pending his trial, and previously argued that he was a flight risk.

According to court documents, Proud Boys organization members planned for the Capitol breach months in advance. As Insider previously reported, Nordean was the "ultimate leadership of the Proud Boys' activities on January 6, 2021." (1)

Exhibit "B"

An article published by, "Law & Crime", April 9, 2021

~ "Proud Boy' Ethan Nordean Says He Should Stay Out of Jail Because Guards Are Beating Capitol Siege Defendants.

Ethan Nordean, the Seattle-area Proud Boys member also known as Rufio Panman to audiences on InfoWars with Alex Jones, is joining a chorus of complaints about defendants' treatment behind bars as they await further proceedings on charges connected to the breach of the U.S. Capitol Complex on Jan. 6. Nordean, who is free on bond, says the alleged mistreatment of other inmates should be taken into account by a federal judge. Prosecutors are asking that judge to send Nordean back to jail as he awaits trial.

A three-page court filing by Nordean's lawyers directly references a Politico report which claims guards at Washington, D.C.'s Correctional Treatment Facility have targeted capitol breach defendants with alleged physical and verbal abuse. The accusations came to light when one Capitol siege defendant, Ronald Sandlin, told a judge this week that his fellow Jan. 6th defendants "are scared for their lives" behind bars.

Sandlin said Jan. 6 defendant Ryan Samsel "was severely beaten by correctional officers" and is now "blind in one eye, has a skull fracture, and detached retina." He also alleged that racial tension existed between minority guards and the various white defendants, some of whom are alleged or admitted white supremacists. Samsel's attorney subsequently threatened litigation against the jail facility, the Politico report said.

Nordean's attorneys piled on to the accusations in a April 8 court filing:

Undersigned counsel can add that these reports are consistent with what they have personally learned in connection with another Capitol protester defendant, who is not even included in the above reporting. This defendant advised counsel that, during his pretrial detention at the D.C. facility, guards would flash lights in his eyes at night so that he could not sleep; that when he was held in solitary confinement for the duration of his stay, he was not given a shower and placed in a cell with a broken toilet; that when he asked for a shower, was handed baby wipes; that he was verbally threatened by guards on multiple occasions; and that guards would snap photographs of the defendant with their phones without his consent, which they appeared to be sharing with other parties through their phones.

It is unclear whether Nordean directly suffered any alleged harms while he was detained pending trial, but he is using the accusations in a legal strategy aimed at remaining free on bond. His argument, put simply, is that he fears being targeted because of his ties to an alleged white supremacist group if he is forced to return to jail. Federal prosecutors have consistently asked that Nordean be locked up; however, but for a brief emergency detention order, judges have thus far refused to acquiesce to those demands.

Federal prosecutors filed charges against Norden on Feb. 2, and he was arrested on Feb. 3. Though a magistrate judge in Washington State ordered Nordean to be released from custody, a federal judge in Washington, D.C., ordered him detained and transported back to the capital to face trial on Feb. 8. Nordean's attorneys continued to argue that he should be released from jail because, in their view, the charges against him were not supported by probable cause, the charges he faced did not constitute "crimes of violence," and Nordean's conduct wasn't serious enough to warrant the degree and level of charges he faced.

"Nordean, 30, has no criminal history," his defense attorneys argued on Feb. 23. "He has been gainfully employed in the Seattle area since his graduation from high school, where he has long and strong ties. The government's argument here is merely that Nordean belongs to the Proud Boys group and should therefore be detained."

Prosecutors countered that Nordean was a flight risk and that he needed to remain locked up to ensure the safety of the community.

Judge Beryl A. Howell on March 3rd agreed that Nordean could be released on a personal recognizance bond and ordered him to remain on home detention pending trial. He agreed to GPS monitoring, and the court docket makes reference to a "High Intensity Supervision Program."

Indictments against Nordean were handed up on March 3rd and on March 10th. Prosecutors again moved to lock him up pending trial on March 20th. A judge said on March 23rd he could remain out on bond. A flurry of arguments from prosecutors and from Nordean's defense attorneys continued to jockey the issue in the ensuing days and weeks.

A judge took the arguments "under advisement" on April 6th but allowed Nordean to remain out on bond.

His attorneys complained about his treatment behind bars to bolster their record should the judge ultimately issue a ruling on whether he should remain free pending trial or should be remanded into custody.

Nordean currently is charged with conspiracy; obstruction of an official proceeding and aiding and abetting; obstruction of law enforcement during civil disorder and aiding and abetting; destruction of government property and aiding and abetting; entering and remaining in a restricted building or grounds; and disorderly conduct in a restricted building or grounds.” (2)

Exhibit “C”

A “Politico” Article published on April 6, 2021.

~ “Capitol riot defendant alleges beating by jail guards

A man accused in the Jan. 6 unrest was left partially blind and moved to another facility, lawyers say.

Tensions are running high between guards and inmates at a D.C. jail housing many of the defendants in Jan. 6 cases, with at least one of those prisoners alleging that he was brutally beaten by correctional officers.

For weeks, Capitol riot defendants being held in Washington have complained that they are locked in their cells with virtually no human contact for 23 hours a day. But a startling, graphic account offered publicly in court on Tuesday by one such inmate, Ronald Sandlin, went further: alleging that guards have subjected those charged in the Jan. 6 events to violence, threats and verbal harassment.

“Myself and others involved in the Jan. 6 incident are scared for their lives, not from each other but from correctional officers,” Sandlin said during a bail hearing conducted by video before U.S. District Court Judge Dabney Friedrich. “I don’t understand how this is remotely acceptable,” he added, saying he was being subjected to “mental torture.”

In an unusual direct plea to the judge, Sandlin said another Capitol riot defendant, Ryan Samsel, “was severely beaten by correctional officers, [is now] blind in one eye, has a skull fracture and detached retina.”

Sandlin also described racial tension between minority guards and the largely white defendants, some of whom have been publicly accused of membership in or association with white supremacist groups.

Sandlin said guards tackled “to the ground” one high-profile prisoner, Richard Barnett, 60, who was photographed with his boot up on a desk in Speaker Nancy Pelosi’s office. Sandlin said one of the guards declared, “I hate all white people and your honky religion.”

The three defendants raising alarms are charged with a wide range of crimes related to the Capitol breach. Sandlin, who posted images of himself smoking a joint in the Capitol Rotunda, is accused of tussling with multiple U.S. Capitol Police officers guarding the Senate chamber and trying to rip the helmet off of one of them. Samsel, who is currently on parole in Pennsylvania and is wanted for an unrelated alleged assault in New Jersey, is charged with toppling barricades on top of police officers, telling one, “We don’t have to hurt you, why are you standing in our way?”

Barnett is charged with entering the Capitol armed with a stun gun, entering Pelosi’s office and putting his feet on the furniture, as well as stealing a piece of mail from her office.

Defense attorneys for Samsel and Barnett confirmed the episodes described in court by Sandlin, which they said they learned about from their clients, clients’ family members and other attorneys.

“There is a pattern of abuse and of targeting of the defendants who are being held pursuant to what happened on Jan. 6,” said Joseph McBride of New York, a defense lawyer for Barnett. “It is targeted. It is ruthless. It is nonstop.”

Steven Metcalf, a lawyer for Samsel, said that after his client complained last month about slow delivery of toilet paper, he was zip-tied, moved to a cell outside the view of surveillance cameras and brutally beaten by guards.

“I have seen Ryan. He has two black eyes to this day, two weeks later. All the skin is ripped off both wrists, which shows the zip ties and how tight they were,” said Metcalf, also from New York. “Other inmates said his face looked like a tomato that was stomped on.”

“We intend on filing a lawsuit against the two specific guards and the facility responsible for this scenario because Ryan Samsel did not deserve to get targeted and treated like this,” Metcalf added.

Another attorney for Samsel, Elisabeth Pasqualini, said that her client was moved to another “undisclosed” location earlier on Tuesday and that the episode in which he was injured last month was under investigation by the FBI.

A spokesperson for the jail system said the matter was under federal investigation.

“The Department of Corrections takes the safety and well-being of all residents, staff, and contractors extremely seriously,” Keena Blackmon, a spokesperson for the D.C. Department of Corrections, said in an email statement. “We are aware of the allegation made by an inmate and it is under investigation by the Department of Justice.”

An FBI spokesperson would not say what the agency is doing about Samsel’s allegations, but said agents had been advised about them.

“The FBI is aware of the allegations; however, as a matter of policy, we can neither confirm nor deny the existence of an investigation,” the spokesperson said by email on Tuesday evening.

Nearly all the Jan. 6 defendants who have reached Washington and remain in custody are being held at the Correctional Treatment Facility, a complex in southeast D.C. typically used for prisoners with health needs or who require isolation from the

general jail population. About 40 Capitol riot defendants are currently at the CTF, defense lawyers said.

A D.C. jail spokesperson and an attorney who represents the D.C. government on such issues did not immediately respond to requests for comment on the allegations. Jail officials have previously informed the court that the Jan. 6 defendants have all been held in “restrictive housing” in order to protect them from potential altercations with other inmates.

“For their own safety and security, all of the detainees who are being held at the Jail in connection with the events that occurred on January 6, 2021 at the Capitol Building have been placed in restrictive housing,” Deputy Warden Michelle Jones said in a declaration submitted last month to Judge Royce Lamberth, who is presiding over a separate case related to Jan. 6.

One veteran D.C. defense attorney said many Capitol rioters were new to the District’s jail system and might believe they’re being specifically targeted when they’re simply unfamiliar with being in jail at all — particularly in the harsh conditions of 23-hour-a-day isolation.

During the hearing on Tuesday, Friedrich made no direct response to Sandlin’s complaints about the jail, but she set a further hearing for Thursday on his possible release from custody.

Pasqualini said she recognized that many people might have little sympathy for those accused of storming the Capitol, but that people who haven’t been convicted of any crime shouldn’t face such harsh conditions or abuse.

“For anyone inclined to think as a charged ‘Capitol Rioter,’ Mr. Samsel got what he deserved, I say get down from your mountain top, the hypocrisy in that air is distorting your vision,” she said in a statement. “Either we live in a democracy that believes in due process and equal justice before the law or we do not.”

At another hearing on Tuesday, the chief judge of the court handling the Jan. 6 cases openly bristled at a recent appeals court ruling that made it harder to hold those defendants in jail pending trial.

Chief Judge Beryl Howell said the March 26 decision from the D.C. Circuit Court of Appeals was inscrutable, and she repeatedly expressed disappointment that prosecutors did not appeal it further, but quickly agreed to release the two Jan. 6 defendants who brought the appeal, Eric Munchel and Lisa Eisenhart.

“The government just folded,” Howell declared. She complained that District Court judges were “being put through the paces” by prosecutors and urged the rank-and-file prosecutor at her hearing to take the complaint to John Crabb, a top official in the U.S. Attorney's Office in Washington.

The appeals court decision emphasized that the events of Jan. 6 occurred in an almost unique context and that predictions about the future actions of riot suspects needed to be assessed through that prism.

However, Howell called aspects of the D.C. Circuit ruling “irreconcilable” and suggested that in the wake of the ruling, only those who were videotaped engaging in hand-to-hand combat with police on Jan. 6 were likely to be held as they await trial.

“The Circuit's view is, gosh, take a taser, take some zip ties, walk around the Senate chamber — not a sign of future dangerousness,” Howell said.

Similar issues were aired on Tuesday in one of the government's highest-profile Jan. 6 cases, the prosecution of four Proud Boys leaders. The D.C. federal judge assigned to that case appeared skeptical about prosecutors' efforts to detain defendants Ethan Nordean and Joseph Biggs ahead of trial.

Though prosecutors have described the pair as uniquely dangerous, able to assemble a violent mass of Proud Boys to do their bidding at a moment's notice, U.S. District

Court Judge Timothy Kelly said that so far there appeared to be little evidence that either of the men committed or encouraged violence on Jan. 6 itself.

“The evidence of violence on that day is pretty muted,” Kelly said of Biggs and Nordean.

“I’m not saying that at a future hypothetical trial, the government’s not going to be able to stitch together all of this and lay a lot of what happened that day ... at their feet,” Kelly continued. “Maybe you will. But in terms of weighing the question of dangerousness and detention ... when we get down to the day in question, there isn’t anything that is very clearly an invocation of violence. It does say something about the strength of the case at this moment.”

Kelly issued no immediate ruling. The two men will remain under home confinement until another hearing the judge set for Friday.” (3)

Therefore, we the undersigned, fervently and respectfully request Your Honor, to revisit and reconsider your decision to revoke Mr. Nordean’s Pre-trial release.

We thank you for your time and consideration in this most important matter.

* Footnotes

- (1) Insider 4/10/2021, Taylor Ardrey and Michelle Mark
- (2) Law & Crime 4/9/2021, Aaron Keller
- (3) Politico 4/6/2021, Josh Gerstein and Kyle Cheney