

JESSICA WATKINS DEFENDS HERSELF BY CLAIMING THE ARMED MILITIA PARADE WAS PART OF THE PLAN

In a bid to spring her client from jail pre-trial, Jessica Watkins' attorney Michelle Peterson accuses the government, twice, of wielding rhetorical flourishes to portray Watkins' actions in the worst light.

The government's rhetorical flourishes aside, there is insufficient evidence to demonstrate that Ms. Watkins would be either a risk of flight or a danger to her community if she were released on stringent conditions.

[snip]

The government's motion for detention is filled with rhetorical flourishes design to inflame the passions of its readers without supporting evidence, e.g., "Watkins single-minded devotion to obstruct though violence" p.1, "this was a moment to relish in the swirling violence in the air" p. 2, and references throughout to her attire as "camouflage."

It's true that the government motion for detention portrays Watkins' actions as a grave threat.

The profoundly brazen nature of Watkins's participation in the January 6, 2021 assault on the Capitol was uniquely dangerous and continues to impact security in the District and beyond. Watkins joined a violent mob that overwhelmed law enforcement and

destroyed government property, re-creating in modern times events not seen in this nation since the War of 1812. In this backdrop, Watkins and her co-conspirators formed a subset of the most extreme insurgents that plotted then tried to execute a sophisticated plan to forcibly stop the results of a Presidential Election from taking effect. And she did this in coordination and in concert with a virulently antigovernment militia members.

But Peterson accuses the government of rhetorical excess while excusing Watkins' own actions and inflamed self-description of them by suggesting that Watkins was simply helpless in the face of Trump's lies.

His supporters said he would invoke the Insurrection Act to use the military to ensure his continued presidency despite the election results, which they viewed as fraudulently reported in large measure because of the rhetoric of the President, his congressional supporters, and the right-wing media.

[snip]

However, these statements if made, were made in November, shortly after the election in the wake of the then President's heated rhetoric about the election being stolen.

[snip]

While some of the rhetoric she allegedly engaged in is troubling, she fell prey to the false and inflammatory claims of the former president, his supporters, and the right wing media.

Unless and until Trump's own crimes get added to these conspiracy indictments, these detention memos will continue to dispute what to call the

terrorist event that happened on January 6. Until that time, the government will be relying on legal maneuvers, like charging the Oath Keepers with abetting the physical damage to the Capitol – because the doors through which they breached the building suffered significant damage – as a way to get the presumption of detention tied to a domestic terrorism charge. And defense attorneys will continue to argue that entering the Capitol in military formation after two months of preparation for action in response to the election outcome does not amount to a crime of violence.

I don't believe we need a domestic terror statute. But we need language to describe domestic terrorism. Because we don't have agreed on language for this thing, an event that forced the Vice President, the Speaker of the House, and the Vice President-Elect to flee from threats of imminent assassination, these disputes will continue to struggle to fit these actions into our existing categories.

Still, even in Peterson's description of the problem, there are problems with this story. Watkins' brief admits that she engaged in apocalyptic rhetoric, but suggests that all happened in November, long before and dissociated from the apocalyptic event.

The government includes statements Ms. Watkins is alleged to have made about the election and the need to fight, kill, or die for rights and statements about being prepared to fight hand to hand. However, **these statements if made, were made in November**, shortly after the election in the wake of the then President's heated rhetoric about the election being stolen. They are not even alleged to have been made about the January 6 events. The statements were not directed towards law enforcement and are as easily interpreted as being prepared to encounter violent counterprotesters as they had on earlier

occasions. And importantly, according to the government, Ms. Watkins made it clear that she would do nothing that was not specifically requested by the President. However misguided, this shows an intent to abide by the law, not violate it. [my emphasis]

Peterson describes the events of January 6, by contrast, as the natural response of veterans anticipating that the then-President might invoke the Insurrection Act, as his disgraced former National Security Advisor Mike Flynn and others demanded.

His supporters said he would invoke the Insurrection Act to use the military to ensure his continued presidency despite the election results, which they viewed as fraudulently reported in large measure because of the rhetoric of the President, his congressional supporters, and the right-wing media. The report of the potential invocation of the Insurrection Act took root in the online community of Trump supporters and led many local militias to believe they would have a role if this were to happen. Ms. Watkins was one of those people. In November, she believed that the President of the United States was calling upon her and her small militia group to support the President and the Constitution and she was ready to serve her Country in that manner. However misguided, her intentions were not in any way related to an intention to overthrow the government, but to support what she believed to be the lawful government.

The problem is, these claims are totally refuted by the timeline.

Flynn was probably the earliest prominent advocate for martial law. That was on December

1, after the November comments in question. Watkins, meanwhile, was looking for a sign even before that, on November 9.

Her concern about taking action without his backing was evident in a November 9, 2020, text in which she stated, “I am concerned this is an elaborate trap. Unless the POTUS himself activates us, it’s not legit. The POTUS has the right to activate units too. If Trump asks me to come, I will. Otherwise, I can’t trust it.”

That’s before the earliest Trump incitement cited by the defense, a November 21 rally in GA.

See *id.*, Donald J. Trump (@realDonaldTrump), Twitter (Nov. 21, 2020 3:34 PM) (Watch: Hundreds of Activists Gather for ‘Stop the Steal’ Rally in Georgia <https://t.co/vUG1bqG9yg> via Breitbart News Big Rallies all over the Country).

The earliest moment when Watkins spoke specifically in terms of the Insurrection Act was December 29, long after some of her most inflammatory comments.

In a text exchange with Co-defendant Donovan Crowl on December 29, 2020, she informed, “[w]e plan on going to DC on the 6th” because “Trump wants all able bodied Patriots to come,” and how, “[i]f Trump activates the Insurrection Act, I’d hate to miss it.”

Yet as early as October 26, Watkins was already timing militia training to inauguration.

Watkins emphasized this point to another recruit on October 26, 2020, noting, “the election is imminent. We do have Basic Training/FRX coming up in January though ... others who join before then

without experience will be REQUIRED to attend for the full week. Donovan already has his Drill Sergeant mode going haha. The rest of us will be training with them to get us all field-ready before inauguration.”

That shows a continuity between Watkins’ pre-election statements and post election plans.

On November 9, 2020, WATKINS, the self-described “C.O. [Commanding Officer] of the Ohio State Regular Militia,” sent text messages to a number of individuals who had expressed interest in joining the Ohio State Regular Militia. In these messages, WATKINS mentioned, among other things, that the militia had a weeklong “Basic Training class coming up in the beginning of January,” and WATKINS told one recruit, “I need you fighting fit by inauguration.”

And some of her most inflammatory language came in mid-November, such as when, on November 17, she spoke of killing and dying for “our” rights.

I can’t predict. I don’t underestimate the resolve of the Deep State. Biden may still yet be our President. If he is, our way of life as we know it is over. Our Republic would be over. Then it is our duty as Americans to fight, kill and die for our rights.

and:

[I]f Biden get the steal, none of us have a chance in my mind. We already have our neck in the noose. They just haven’t kicked the chair yet.

Or, her comments on November 19 about going “underground if this coup works.”

Indeed, on November 19, 2021, Watkins went so far as to text a contact that,

“If anything, we need to go underground if this coup works,” as well as for the need “to be cautious as hell going forward” since “[i]f they still this election, we are all targets after Jan 20th.”

Again, this precedes the first instance of incitement from Trump cited by Watkins’ attorney, on November 21.

Moreover, Peterson’s claim that when Watkins spoke of the beauty of the insurrection to a reporter, she was just referring to the National Anthem, is totally refuted by the actual record.

Their evidence is that 40 minutes after the Capitol had been breached, she went to the Capitol and entered the building. By that time, the door had already been opened. The government acknowledges that “the crowd aggressively and repeatedly pulled on and assaulted” the doors of the building to get inside, causing damage. Ms. Watkins is charged with aiding and abetting this offense, but there is no evidence that this was something she had a criminal intent to do. She would have to have shared in the intent to destroy property, when in fact, she attempted to stop people from destroying property. She talked of the beauty of the peaceful protest, but acknowledged that it was only beautiful until she started hearing glass break. When she spoke of the beauty, she was referring not to the violence, but to the chants of USA and the singing of the National Anthem.

In the actual interview, Watkins specifically spoke of “standing our ground” against the cops because “they attacked us.”

“To me, it was the most beautiful thing I ever saw until we started hearing

glass smash. That's when we knew things had gotten really bad." Watkins also states, "We never smashed anything, stole anything, burned anything, and truthfully we were very respectful with Capitol Hill PD until they attacked us. Then we stood our ground and drew the line."

Her claim that "they attacked us," may reflect her co-conspirator Thomas Caldwell's false claim that the cops were "teargassing peaceful protestors."

On January 6, 2021, at approximately 2:06 p.m., CALDWELL sent WATKINS a text message stating: "Where are you? Pence has punked out. We are screwed. Teargassing peaceful protestors at capital steps. Getting rowdy here.. I am here at the dry fountain to the left of the Capitol[.]"

That is, it's not *just* Donald Trump who riled her up. So did her buddies in the militia (as she riled up fellow members).

Moreover, Watkins' lawyer makes much of the fact that Watkins' formation did not enter the Capitol until 40 minutes after it was breached. But that was long after she operated on a belief that the cops had targeted "protestors," and it reflected actions planned a week in advance.

Perhaps the most intriguing comments in Watkins' filing – and the most unintentionally damning – are the description of Watkins serving as "escort" or "security" for pro-Trump politicians.

Ms. Watkins has no prior history of violence and has tremendous respect for law enforcement and the Constitution of the United States. Indeed, although misguided, she believed she was supporting the Constitution and her government **by providing security**

services at the rally organized by Mr. Trump and the republican lawmakers who supported his goals.

[snip]

On January 5 and 6, Ms. Watkins was present not as an insurrectionist, but to provide security to the speakers at the rally, **to provide escort for the legislators and others to march to the Capitol as directed by the then President**, and to safely escort protestors away from the Capitol to their vehicles and cars at the conclusion of the protest. She was given a VIP pass to the rally. **She met with Secret Service agents. She was within 50 feet of the stage during the rally to provide security for the speakers.** At the time the Capitol was breached, she was still at the sight of the initial rally where she had provided security. The government concedes that her arrival at the Capitol was a full 40 minutes after the Capitol had been breached. [my emphasis]

I believe this is the first description of the Oath Keepers' role as "security" as these events in any of the legal filings in the case. But it doesn't seem to help any of the co-conspirators.

Jessica Watkins was invited to an extremist revival event and given a VIP badge. She did so in the guise of providing security. But she admits she was almost 50 feet away from the stage, in no way the right location to be providing security (moreover, I think this claim is somewhat inconsistent with that the reported analyses shows, because members that would become the Stack left early, perhaps in response to Caldwell's text).

Her brief further describes that she and her kitted-out militia were to provide "escort" to marchers to the Capitol, and she appears to know

the intent was to march to the Capitol. One way or another, that still means her stated purpose – the reason she was wearing a VIP pass provided by official organizers (including Ali Alexander and Alex Jones) – was to ensure that those marching on the Capitol were accompanied by a militia that had plans to take up arms if things went badly.

I'm really grateful to Watkins' attorney for providing the FBI reason to go ask the Secret Service and event organizers about this plan for an armed escort to the Capitol. This may accelerate the process of incorporating at least Roger Stone and Jones into these conspiracy indictments.

But it simply doesn't help the cause of claiming that the Oath Keepers weren't part of an organized conspiracy to interrupt the legal vote count. Does that mean that Jessica Watkins should be detained because people incited by the Proud Boys demolished the Capitol door? No. Does it mean she poses a threat because the organization she help[ed] lead started planning even before the election to have people trained to take action? Yes.

In November, Watkins wanted to make sure that Trump himself wanted her militia to take action. Her lawyer claims that Watkins was awaiting the invocation of the Insurrection Act. But even without that invocation, according to this filing, she envisioned serving as the military guard for a march of people from the White House to the Capitol seeking to overturn the election results.

And thanks to this defense filing, prosecutors can start talking about this earlier part of the conspiracy now.

Update: Peterson has submitted a clarification that has made the comments about the Secret Service even more damning. She didn't *meet* the Secret Service. She spoke with them as she was coming through security for the VIP pen, from which she fancies she was "providing security."

And they told her to leave her tactical gear outside the pen.

Jessica Watkins, through counsel, respectfully submits this clarification to her motion for release pending the outcome of her case. Counsel apologizes for being less than clear on a couple of points raised in the original motion – something that unfortunately became obvious by media inquiries. Counsel in no way meant to imply that Ms. Watkins met with the Secret Service. A better verb would have been “encountered.” **Ms. Watkins spoke with Secret Service members early in the day when she was coming through the check in point for the VIP area.** The point counsel was attempting to make was that she encountered law enforcement, including Secret Service officer on her way to providing security for the rally. **She was given directives about things she could and could not do, including directions to leave all tactical gear outside of the VIP area,** and she abided by all of those directives. Ms. Watkins does not suggest that she has any direct knowledge that her role as security was sanctioned by anyone other than people involved in organizing the rally. She certainly did not mean to suggest that she was hired by the U.S. Secret Service to perform security. Counsel again apologizes for any confusion created by the inartful language used in the motion.

Effectively, then, hours before she entered the Capitol, which was full of protected people, including the Speaker of the House, President Pro Tempore, Vice President-Elect, and the Vice President that Donald Trump had just targeted, Watkins was told not to bring her tactical gear close to another set of protected people. And once she left the VIP pen where she was

“providing security,” she put that tactical gear back on.

That only serves to emphasize the degree to which she was targeting Congress.