

KASH PATEL THINKS ASSAULT DEFENDANTS SHOULD BE ABLE TO GRAB FOR GUNS WHEN PROBATION OFFICERS ARRIVE

The press continues to largely ignore the work that Jack Smith did, including the footnote in his report where he noted Trump's support for the Jan6 choir by listing the detention memos for a number of them.

As he did in his 4:17 p.m. and 6:01 p.m. Tweets on January 6, Mr. Trump has provided additional evidence of his intent by continuing to support and ally himself with the people who attacked the Capitol. He has called them "patriots" 135 and "hostaoes" 136 reminisced about b ' January 6 as a "beautiful day," 137 and championed the "January 6 Choir," 138 a group of January 6 defendants who, because of their dangerousness, are detained at the District of Columbia jail. 139

139 See *United States v. Nichols*, No. 21-mj-29, ECF No. 9 (E.D. Tex. Jan. 25, 2021) (ordering pretrial detention in prosecution of defendant who later became a member of the "January 6 choir"); *United States v. Nichols*, No. 2 l-cr117, ECF No. 75 (D.D.C. Dec. 23, 2021) (denying defendant's motion for pretrial release); *id*, ECF No. 307 at 27 n. 10, 35-36 (D.D.C. Apr. 30, 2024) (government sentencing memorandum referencing defendant's involvement in "January 6 choir"); see also *United States v. Mink*, No. 21-mj-105, ECF No. 19 (W.D. Pa. Jan. 29, 2021) (in

prosecution of defendant who later became a member of the “January 6 choir,” ordering defendant’s pretrial detention); United States v. 1vfink, No. 21-cr-25, ECF No. 45 (D.D.C. Dec. 13, 2021) (court order denying defendant’s motion to revoke pretrial detention); United States v. Sandlin, No. 21-mj-110, ECF No. 8 (D. Nev. Feb. 3, 2021) (ordering pretrial detention in prosecution of defendant who later became a member of the “January 6 choir”); United States v. Sandlin, No. 21-cr-88, ECF No. 31 (D.D.C. Apr. 13, 2021) (denying defendant’s motion for release on bond); *id.*, ECF Nos. 44, 44-1 (D.D.C. Aug. 31, 2021) (mandate return following denial of defendant’s appeal of pretrial detention order); United States v. Shively, No. 21-cr-151, ECF No. 42 (D.D.C. May 9, 2022) (in prosecution of defendant who later became a member of the “January 6 choir,” revoking conditions of release and ordering pretrial detention); United States v. Khater, No. 21-cr-222, ECF No. 25 (D.D.C. May 12, 2021) (in prosecution of defendant who later became a member of the “January 6 choir,” denying defendant’s motion for release from custody); United States v. McGrew, No. 21-cr-398, ECF No. 40 (D.D.C. Nov. 2, 2021) (order of detention pending trial in prosecution of defendant who later became a member of the “January 6 choir”).

Bulwark is one laudable exception. In advance of his confirmation hearing, they did a post using the footnote to focus on Kash Patel’s role in boosting the video. They quote Patel saying, over and over, that the video represents how he boosted the video to “destroy the two-tier system of justice” seemingly applied to Jan6ers.

PATEL DISCUSSED HIS KEY ROLE in

producing and promoting the J6 Prison Choir during a March 10, 2023 appearance on Steve Bannon's *War Room* podcast. Patel announced that he was "exclusively" releasing for "the first time ever" the video for the choir's song "Justice for All."

"We all know the plight of the Jan. 6 prisoners and their families and how due process has been destroyed for so many of them," Patel told Bannon. He then explained how he and others helped produce the song.

"We also know, or some of us know, that they sing, the Jan. 6 prisoners themselves sing, the national anthem every night for 700 straight plus nights from the jail themselves," Patel said. He and others thought it "would be cool" if "we captured that audio" and mixed it with "the greatest president, President Donald J. Trump," reciting the Pledge of Allegiance. "Then we went to a studio and recorded it, mastered it, and digitized it, and put it out as a song," Patel added.

[snip]

As he went on to promote the song in the weeks that followed, Patel portrayed the J6 Prison Choir as victims of the U.S. justice system. "[‘Justice for All’] was a collaboration between like-minded Americans who wanted to keep the focus on helping to destroy the two-tier system of justice that is rotting America," *Gateway Pundit* quoted Patel as saying in a March 21, 2023 post. Patel added that the "net profits" would be used "to financially assist as many Jan. 6 families as we can, and all families of nonviolent offenders will be considered." (This raises a question: Given that the choir's members included violent offenders, did any of them, or

their families, receive any of the proceeds?)

That said, they relied only on press releases to describe those included in Jack Smith's footnotes, not the dockets themselves (or better yet, video). I want to focus on a few of the cases to show what the aspiring FBI Director thinks constitutes a two-tier system of justice.

I want to start with one of the least obnoxious people who was in the DC Jail in March 2023, Barton Shively (CourtListener docket). A former Marine, he was originally arrested on January 19, 2021 for assaulting two cops; he would eventually plead guilty to striking one officer's "hand, head and shoulder areas," and grabbing another and yelling at him.



But like most others accused of assaulting cops with his own hands (as opposed to a weapon), *he wasn't jailed right away*. He was released to home detention, and several times got revisions to his release condition (for example) to make sure he could continue to work and, in May 2022, so he could get treatment for newly diagnosed Hodgkins.

That changed in May 2022, when probation officers showed up and found him with a shotgun and a sword.

On or about May 4, 2022, U.S. probation officers from the Middle District of Pennsylvania conducted an unannounced home visit and found a shotgun, ammunition, knives, and a sword in the defendant's residence. See Image 10 below. Significantly, the "butt" of that shotgun had a cloth sleeve which stated, "THREE PERCENTERS."⁵ Given the nature and seriousness of the violations of his release conditions and his displayed lack of candor, both D.C. Pretrial Service Agency and the U.S. Probation Office for the Middle District of Pennsylvania, *inter alia*, requested the defendant be removed from all pretrial supervision programs. Based on that report, this Court ordered that a show-cause hearing be scheduled for May 9, 2022. On May 9, 2022, after a hearing regarding the violations, this Court ultimately revoked his Release Conditions and detained Shively until sentencing in this matter. See Court's Order ECF #42.

At his detention hearing, the probation officers claimed that Shively "reached for a shotgun, prompting one USPO to draw his weapon."

That's what led him to be jailed: not the original assault on the cops, but that he allegedly grabbed for a gun when probation officers found he had one that his release conditions prohibited him from even having.

That's what Kash Patel claims is a two-tier system of justice, that after a guy accused of assault allegedly grabbed for a gun when his probation officers found it, he was detained.

Importantly, on intake, Judge Kollar-Kotelly made sure he would be assessed for the best medical treatment, for which his attorney later expressed appreciation for the "Court's mindfulness of his medical situation."

Shively remained in the DC Jail in March 2023 because his attorney asked for – and ultimately got – Kollar-Kotelly to recuse from the case because she had learned, *ex parte*, of an altercation at the jail in 2022, which led to a delay in his sentencing from February to June 2023.

In the end, in June 2023, Judge Jia Cobb sentenced Shively to 18 months for the assault, less than the 27 months even his attorney suggested.

Apparently, the aspiring FBI Director thinks that men out on pre-trial release should be able to grab a gun they're prohibited from having when federal probation officers arrive and not get detained.