

IN ADDING MATTHEW GREENE TO A CONSPIRACY WITH DOMINIC PEZZOLA, DOJ FORMALLY ALLEGES THE PROUD BOYS COMMITTED A CRIME OF TERRORISM

At a detention hearing for Charles Donohoe yesterday, Magistrate Judge Michael Harvey asked a long series of questions, including what a “normie” is, what Telegram is (it is stunning that a DC Magistrate doesn’t know that, but that’s a testament they won’t accept US legal process), and whether “Milkshake,” who had been described saying a lot of really damning things in an organizational channel, was part of the conspiracy. AUSA Jason McCullough said that DOJ is still assessing Milkshake’s – whose real name is Daniel Lyons Scott – criminal liability, but since he was filmed fighting with some cops, I’d be arranging legal representation if I were him.

Along the way, however, the questions led McCullough to provide several new details on the Proud Boy conspiracy. One question he didn’t answer is whether the government knows that Donohoe succeeding in “nuking” some texts describing organizational efforts, as he described wanting to do after Enrique Tarrío got arrested.

McCullough also revealed something that was not yet public: the government had rounded up another Proud Boy, Matthew Greene, and indicted him in what I call the Proud Boy “Front Door” conspiracy along with Dominic Pezzola and William Pepe. In doing so, they did something more important for their larger case. First, they changed the purpose of the conspiracy from

what it was originally charged to match all the other militia conspiracies (from busting through the first door to obstructing the vote count). Here's what the militia conspiracies currently look like as a result:

Oath Keeper	Proud Boy Media	Proud Boy Leadership	Proud Boy Kansas	Proud Boy North Door	Proud Boy Front Door
Kelly Meggs Jessica Watkins Thomas Caldwell Dorcas Crowl Sandra Parker Bernie Parker Graydon Young Laura Stalle Connie Meggs Kenneth Harrison Roberto Minusa Joshua James	Nicholas Ochs Nicholas DeCarlo	Ethan Nordean Joe Biggs Zachary Rehl Charles Donohoe	William Chestman Louis Enrique Colon Felicia Konold Cory Konold Christopher Kuehne Ryan Ashbock	Jonathanpete Klein Matthew Klein	Dominic Pezzola William Pepe Matthew Greene
1) To stop, delay, or hinder Congress's certification of the Electoral College vote.					
		2) To obstruct and interfere with law officers engaged in their official duties to protect the Capitol and its occupants from those who had unlawfully advanced onto Capitol grounds.			
Encourage attendance (a)		Encourage attendance (a)			
Advertise to raise funds and recruit (c)		Advertise to raise funds (b)			
Bring paramilitary gear (f)		Bring paramilitary gear (c)	Bring paramilitary gear (c)		
Travel to DC (e)(g)	Travel to DC (d)	Travel to DC (e)	Travel to DC (b)	Travel to DC (a)	
Coordinate before Jan 6 (b) (d)	Coordinate in advance (b)	Coordinate before Jan 6 (f)	March with Proud Boys (e)		Coordinate travel (a)
Use comms on Jan 6 (k)		Use comms on Jan 6 (g)	Affix orange tape (d)		Obtain and use comms (b)
		Dismantle barricades (h)		Force open doors (e)	Dismantle barricades (e)
Storm past barricades (j)	Storm past barricades (e)	Storm past barricades (i)	Storm past barricades (f)		Dismantle barricades, Break into Capitol (d) (f)

It was probably fairly urgent for DOJ to do this (and Greene's inclusion may have been just a convenient rationale). Here's how the indictment changed from the original Indictment to the Superseding one (S1):

	Indictment		S1	
Count	Defendants	Charge	Defendants	Charge
One	Pezzola, Pepe	371, 231(a)(3)	Pezzola, Pepe, Greene	371, 1512(c)(2), and 231(a)(3)
Two	Pezzola, Pepe	231(a)(3) and Abetting	Pezzola, Pepe, Greene	1512(c)(2) and Abetting
Three	Pezzola	231(a)(3) (for stealing shield)	Pezzola, Pepe, Greene	231(a)(3) and Abetting
Four	Pezzola	2112	Pezzola	2112
Five	Pezzola	111(a)(1)	Pezzola	111(a)(1)
Six	Pezzola	1361	Pezzola, Pepe, Greene	1361 and Abetting
Seven	Pezzola	1512(c)(2)	Pezzola, Pepe, Greene	1752(a)(1)
Eight	Pezzola and Pepe	1752(a)(1)	Pezzola, Pepe, Greene	1752(a)(2)
Nine	Pezzola and Pepe	1752(a)(2)	Pezzola, Pepe, Greene	1752(a)(4) and Abetting
Ten	Pezzola	1752(a)(4)	Pezzola	231(a)(3) and Abetting
Eleven	Pezzola	231(a)(3) and Abetting		

In general, the government is charging Pepe and now Greene with more than they originally charged Pepe with based on a theory that they abetted Pezzola's alleged crimes. But the critical change is highlighted. Originally (marked in pink), just Pezzola was charged for breaking the window through which the initial breach of the Capitol happened. But in this indictment (marked in yellow), DOJ charges Pepe and Greene for abetting Pezzola in breaking that window.

The reason they did this is because 18 USC 1361 is the crime for which DOJ is arguing that all key Proud Boy defendants can be detained pre-trial, not just Pezzola, but also Joe Biggs, Ethan Nordean, Zach Rehl, and Charles Donohoe. In detention hearings, the government has argued that it counts not just as a crime of violence that allows the government to argue that a

defendant is eligible for detention, but also that, because it was done to coerce the conduct of government, it triggers a terrorism designation for detention purposes.

This is how the argument looks in detention memos:

As it did before, the United States moves for detention pursuant to 18 U.S.C. § 3142(e)(3)(C), which provides a rebuttable presumption in favor of detention for an enumerated list of crimes, including Destruction of Property in violation of 18 U.S.C. § 1361. The United States also seeks detention pursuant to 18 U.S.C. § 3142(f)(1)(A), because Destruction of Property, in violation of 18 U.S.C. § 1361, is a crime of violence. Moreover, when Destruction of Property is “calculated to influence or affect the conduct of government by intimidation or coercion,” it also qualifies as a federal crime of terrorism. See 18 U.S.C. § 2332b(g)(5)(B).

This was an issue in the Monday detention hearing before Judge Tim Kelly for Biggs and Nordean. After the hearing, he required the government to submit a picture of Pezzola breaking that window.



And it will likely become an issue when Joe Biggs, at least, appeals his detention, as he

noticed he would do yesterday (it would be a still bigger issue in Nordean or Donohoe's case).

In fact, the government has been making this argument for some time.

But it wasn't until this superseding indictment that the government formally aligned Pezzola's actions – including spectacularly breaking that first window with a riot shield – with the rest of the Proud Boy indictments, in fact making them (as the government has already argued) the same conspiracy, a conspiracy involving terrorism.