

AT THE BARRICADES: NEWLY DISCOVERED VIDEO DEPICTING TIMOTHY HALE- CUSANELLI

Last week, I reluctantly argued that Timothy Hale-Cusanelli, a Nazi-sympathizer, may have been overcharged and based on that detained for four months.

I think it likely that DOJ has made an error, of another sort, with Nazi sympathizer Timothy Hale-Cusanelli, detaining him for four months based off a mistaken belief he played a more important role in January 6 violence than he did.

Hale-Cusanelli was arrested on January 15, three days after a co-worker of his, who was already an NCIS informant, alerted the FBI that Hale-Cusanelli took part in the riots and had, in the past, espoused fairly extreme white supremacist views. On January 14, the informant recorded Hale-Cusanelli describing giving hand signals to the mob and taking a flag that Hale-Cusanelli described as a “murder weapon” to destroy.

Hale-Cusanelli’s arrest warrant, which charged him with the misdemeanor trespassing charges everyone gets charged with along with a civil disorder charge, included no video from the day of the attack. When the government indicted him, they added obstruction charges and abetting.

[snip]

But the accompanying discovery

summary in fact seems to *confirm* what Zucker has said: he has received no or next to no surveillance video of his client in the Capitol, and what he has gotten appears to pertain primarily to a different person he represents (Zucker also represents Jerod Wade Hughes and Thomas Webster, and did represent Dominic Pezzola for a period).

[snip]

This guy has absolutely loathsome views. But they are views protected by the First Amendment – and also views shared by a goodly percentage of the other January 6 defendants, many of them out on personal recognizance. The others who, like Hale-Cusanelli, were of particular concern to the government because they held clearance on January 6 also engaged in physical assault – and Freddie Klein was released even after that. As I noted, the government spent two months confirming details of active duty Marine, Major Christopher Warnagiris' far more important conduct from the day before arresting him, and then let him out on personal recognizance.

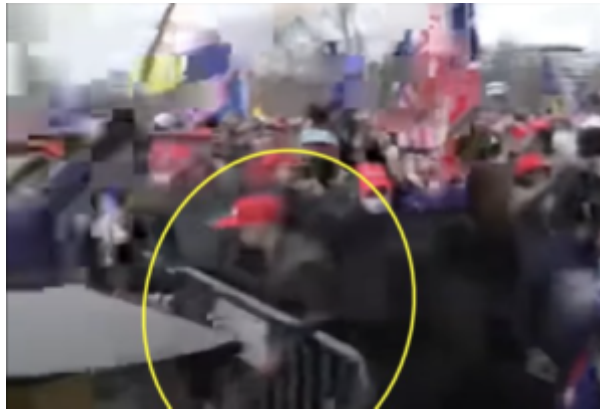
While the government has provided evidence that he did intend to obstruct the vote count, nothing in his conduct from the day substantiates the civil disorder challenge. Yesterday, Fifield asked for two more months to find that evidence.

The other day, Hale-Cusanelli had a court hearing to discuss two things: replacing Jonathan Zucker, and speedy trial waiver. The hearing started with Judge Trevor McFadden granting the request for a new lawyer. And based partly on having just obtained a new lawyer, McFadden granted some of the government's request for another month continuance.

That is, by changing lawyers, Hale-Cusanelli relieved the pressure on the government to substantiate the case against him immediately (though he is appealing his detention so will get that opportunity before the DC Circuit).

That said, in the discussion of swapping lawyers, Zucker explained that a video he had *just* received presented the bulk of the evidence against his client (and seemed convinced that it was substantial evidence).

While it may not be the same video, a researcher found a YouTube that depicts Hale-Cusanelli, working in concert with the most organized of the insurrectionists, moving police barriers.



This is the kind of evidence that, against other defendants, has substantiated the 231 civil disorder charges that I had previously expressed skepticism about. So I retract my concern that Hale-Cusanelli is overcharged.

Note, this is also a testament to something I've pointed out elsewhere: While there's this sense that all the video from the event has created a panopticon of the event, one the participants contributed to, there are gaps in that panopticon, particularly where insurrectionists were battling Capitol Police who (unlike MDP officers) were not equipped with Body Worn Cameras the day of the event. Plus, the scaffolding set up for the inauguration may have obscured some other actions.