



Written by [Annalisa Pesek](#) on October 10, 2022

UPDATE: Oath Keepers Sedition Trial Under Scrutiny After Leaked FBI Document Shows Members Protected Capitol Police

In today's two-tiered criminal justice system, a guy can [mow down](#) dozens of men, women, and children in a Christmas parade attack and yet still receive mercy and [praise for good behavior](#) by state attorneys and a judge boasting what an "excellent job" he did at representing himself at his own trial. Yet unarmed January 6 protesters — branded "terrorists" and "political dissidents" by the ruling Democratic Party — will be made an example.

So continues the high-stakes "seditious conspiracy" trial of Oath Keepers leader Stewart Rhodes of Granbury, Texas, and co-defendants Thomas Caldwell of Berryville, Va.; Kelly Meggs of Dunnellon, Fla; Jessica Watkins of Woodstock, Ohio; and Kenneth Harrelson of Titusville, Fla.



AP Images

Oath Keepers leader Stewart Rhodes

Beginning on Oct. 3, the trial so far has consisted of testimony by FBI witnesses and a former Oath Keeper, as well as opening arguments by federal prosecutors and the defense teams.

However, a twist came on Oct. 6 with the release of a court-sealed FBI document showing that "the prosecution is lying to the jury," and that Oath Keepers indicted on major felony charges came to the aid of Capitol Police and "are not guilty."

Jonathon Moseley, a former attorney representing Oath Keepers defendant Kelly Meggs, wrote in a [statement](#) originally obtained by *The Epoch Times*:

This document — together with a photograph of the moment inside the US Capitol on January 6 — proves that the prosecution is lying to the jury. No one who engages in seditious conspiracy or insurrection stops to come to the aid of the police against the mob....

If the Oath Keepers were involved in any way in any insurrection or conspiracy to obstruct the Joint Session of Congress on January 6, would they turn and stand between the U.S. Capitol Police against the mob? This is not merely a good act. This is absolute proof that there never was any insurrection or seditious conspiracy. The prosecution's entire case is a fraud upon the American people.

Public information officer for the U.S. Attorney's Office for the District of Columbia William Miller refused to comment on Moseley's remarks, [writing in an email](#) to *The Epoch Times*: "We typically do not comment on cases beyond our public statements and filings to the court, and have no comment."



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Judge Threatens Contempt of Court Charges

The document surfaced in court on Oct. 6 and prompted Judge Amit Mehta to make the unusual call of encouraging media outlets present in the courtroom to send messages to Moseley on social media to warn him that he would be jailed if the document was released.

Judge Mehta says that if Mosely does he will be in contempt of court and he urges us (reporters) to tweet that out so Moseley will know that. Moseley claims the doc lost its protective order status; Mehta: i decide when something's lost that status. /59

— Roger Parloff (@rparloff) [October 6, 2022](#)

“These public tweets from journalists reporting on Mehta’s public warning are visible as an incredible event in the already farcical prosecution,” said Moseley in response.

Confirmed as the “Form 302 summary of [Capitol Police] officer Harry Dunn’s interview with two special agents,” per the *Times*, the document details Dunn’s questioning by FBI agents on May 18, 2021 regarding an incident in the Small House Rotunda in the Capitol.

Confirming sections of that interview, *The Epoch Times* [reports](#), video footage by an independent journalist shows a group of Oath Keepers encountering a volatile standoff in the Small House Rotunda at 2:48 p.m. on January 6.

According to the *Times*:

Dunn and at least two very agitated protesters in the crowd were shouting at each other. Dunn has said he did not have his finger on the trigger of his rifle, according to his FBI interview. A bullet was in the chamber but the firearm’s safety was on, he said.

Rhodes told the FBI in an interview that same month that Dunn shouted at the crowd, “I’m going to take as many of you [expletives] with me if you come for my rifle,” according to an interview summary obtained by *The Epoch Times*.

The Oath Keepers “got in between that cop and the Trump supporters and calmed things down and de-escalated the situation,” Rhodes said. “And protected—and protected him.”

In a [March interview](#) with *The Epoch Times*, Rhodes said the situation in the Small House Rotunda could have gone critical very quickly. The stakes in the situation were high, which is why the Oath Keepers stepped in to be a buffer, Rhodes said.

“If you’re armed and you got unarmed assailants, multiples coming at you, you’re in a lethal-force situation and you can’t let them take your gun,” he said. “So in that kind of situation, law enforcement officers will shoot.”

Kellye SoRelle, former general counsel for the Oath Keepers, told FBI agents in May 2021 that the people shouting at Dunn were “agitators.”

At the time, Dunn was guarding the stairs leading down to the Lower West Terrace tunnel entrance. Dozens of officers were inside the building in that location, which was used as a decontamination station for police hit with pepper spray, according to bodycam footage reviewed by *The Epoch Times*.

Dunn said when the Oath Keepers approached him, he told them the protesters were



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fighting police, according to the FBI interview summary.

The Oath Keepers told Dunn they would be a barrier between him and the angry crowd, the FBI document said. Dunn said he “allowed them” to stand in front of him to keep the crowd “from getting down the stairs.”

Dunn told the FBI he was “not angry or scared” but rather “distressed inside.” He had his rifle “flush with his chest” in “Condition 1,” meaning a round was in the chamber, the FBI summary said.

Oath Keepers member Graydon Young said he and other Oath Keepers aided numerous people in need of first aid after they entered the Capitol Rotunda that afternoon, according to a summary he wrote on Jan. 8, 2021.

The Oath Keepers had reached the top of the east steps at the Columbus Doors and “got caught in [the] crowd and shoved in,” Young said.

Banal Text Messages Form Crux of “Armed Rebellion” Argument

Rhodes and his four co-defendants, all of whom have alleged ties to the Oath Keepers, are accused by the Justice Department of organizing an “armed rebellion” to stop the transfer of presidential power and of storing weapons in hotels in Virginia and Washington, D.C., for trained “quick reaction force” teams to act as support to members already at the Capitol.

Attorneys for Rhodes [argue](#) that his actions were in preparation for Trump to invoke the Insurrection Act, wherein the president would call on groups like the Oath Keepers to support him in upholding martial law. Rhodes’ team claims that what prosecutors allege was an illegal conspiracy was “actually lobbying and preparation for the President to utilize” the law.

Day two of the trial saw FBI Special Agent Michael Palian read to the court [messages](#) that he said Rhodes sent to supporters on November 7, 2020, in the days after the mainstream media outlets called the November 3 presidential election for Biden.

According to Palian, Rhodes warned that “the coup isn’t over” and that Biden’s fellow Democrats would also “steal” a majority in the Senate. “Trump has one last chance, right now, to stand. But he will need us and our rifles,” Rhodes said in a message presented to the court.

In an [audio](#) shared with the court in which Rhodes was allegedly planning the attack with members of the Oath Keepers in the days following the election, Rhodes says:

If the fight comes, let the fight come. Let Antifa go, if they go kinetic on us, then we’ll go kinetic back on them. I’m willing to sacrifice myself for that. If they go kinetic, good. If they blow bombs up and shoot us, great. Because that brings the president his reason and rationale to drop the Insurrection Act.

If you’re going to have a fight guys, you want to start now while he’s commander in chief. You do not want to waste this opportunity and let him feel like he has no support. So our mission is going to be to go into DC, but I do want some Oath Keepers to stay on the outside and to stay fully armed and prepared to go in armed if they have to. So if the s*** kicks off, then you rock and roll.



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No Evidence of a Planned “Breach”

Palian would later testify that Thomas Caldwell, a retired U.S. Navy veteran who was arrested on Jan. 19, 2021 but never entered the Capitol, orchestrated a plan for weapons to be deployed from a hotel in Virginia to Washington, D.C., via a boat that would cross the Potomac River on Jan. 6.

According to a report by [The Epoch Times](#), Palian argued that Caldwell’s arrest had nothing to do with his social media role as a “commander” of the Oath Keepers, but only with the alleged scheme to disrupt the certification of the Electoral College vote.

Further, Palian admitted that his probe into Caldwell and the Oath Keepers did not return any evidence of Caldwell’s involvement in a planned “breach” of the Capitol, noting that Caldwell didn’t even pay member dues to the Oath Keepers. However, [said Palian](#) on Oct. 4, “that doesn’t mean he wasn’t conspiring with them.”

Palian tried to paint Caldwell as a cold-blooded killer, saying he sent a group message after January 6 stating, “If we had guns, I guarantee we would have killed 100 politicians.”

On Oct. 5, Judge Amit Mehta ruled that a “death list” allegedly composed by Caldwell was not to be admitted into the case. The list reportedly names two Georgia election officials, Ruby Freeman and Wandrea “Shaye” Moss, who testified to Congress that they feared for their lives in the wake of January 6 after receiving multiple death threats. Mehta said the list would not be admitted into court because it was not related and would “prejudice the jury.”

Also last week, former Oath Keeper John Zimmerman of Fayetteville, N.C., took the stand, accusing Oath Keepers leader Rhodes of making contact with a Secret Service agent in the days leading up to the 2020 presidential election. According to a [CNN report](#), groups like the Oath Keepers attending rallies in the wake of the 2020 presidential election had ongoing contact with law enforcement officials.

This is a developing story that will be updated as more information becomes available.



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