**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

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| **UNITED STATES OF AMERICA** | : | |
| | : | **CASE NO. 21-cr-244 (CKK)** |
| **v.** | : | |
| | : | |
| **ANTHONY ALFRED GRIFFITH, SR.,** | : | |
| | : | |
| **Defendant.** | : | |

**UNITED STATES' RESPONSE TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE CERTAIN EVIDENCE AT TRIAL**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the "Defendant's Motion in Limine as to Certain Subjects" (Dkt. 92), defendant's "Motion in Limine" (Dkt. 93), and defendant's "Motion in Limine to Exclude Evidence Concerning Conduct by Others than Defendant" (Dkt. 95).[1]

In his "Motion in Limine to Exclude Evidence Concerning Conduct by Others than Defendant" (hereinafter, "Dkt. 95 Motion") and his "Motion in Limine" (hereinafter, "Dkt. 93 Motion"), defendant Anthony Griffith ("defendant" and "Griffith") seeks to preclude general evidence of the events of January 6, 2021, as well as characterizations of the defendant and other individuals unlawfully at the U.S. Capitol on January 6 as "rioters," "insurrectionists," or part of a "mob" and terms such as "breach," "confrontation," "police line," and "anti-government extremism." Dkt 95 Motion and Dkt. 93 Motion. In essence, the defendant asks that the Court prevent the government from using evidence and language that accurately establishes and

[1] Defendant also filed "Defendant's Motion in Limine as to Certain Subjects" (Dkt. 94), but that filing appears to be a duplicate of "Defendant's Motion in Limine as to Certain Subjects" (Dkt. 92) and the government's response with respect to Dkt. 94 is the same as its response to Dkt. 92 and will not be addressed separately.

describes both his crimes and the unprecedented assault on the U.S. Capitol that occurred on January 6. The material the defendant seeks to exclude is relevant to the charged conduct and fairly describes the rioters, insurrectionists, and mob that confronted and breached multiple police lines; therefore, the Court should deny both motions.

In "Defendant's Motion in Limine as to Certain Subjects" (hereinafter, Dkt. 92 Motion), the defendant seeks to preclude the government from discussing a wide range of topics. Those specific issues are addressed individually below.

## BACKGROUND

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol.

Temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside. Despite those efforts to maintain order and keep the crowd from entering the Capitol, individuals in the crowd forced entry into the U.S. Capitol around 2:00 p.m., including by breaking windows and by assaulting members of the U.S. Capitol Police. Other members of the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed. As a result, the Joint Session and the entire official proceeding of the Congress was halted until law enforcement was able to clear the U.S. Capitol of hundreds of unlawful occupants and ensure the safety of elected officials.

On January 15, 2021, Griffith was interviewed at his home in Oklahoma by FBI agents. He admitted that he traveled to Washington, D.C., on January 6, 2021. He explained that while there, he went up a set of stairs to an entrance to the U.S. Capitol and walked inside the building. He proceeded down a hallway, entered an office, and interacted with individuals there. He subsequently re-traced his steps and exited the building, only to re-enter the U.S. Capitol a short time later. On that occasion, he walked through hallways and took photographs while inside the building. Investigators reviewed additional photographs and videos from inside the U.S. Capitol Building on January 6, 2021, and located additional images of the defendant inside of the building.

On March 24, 2021, the grand jury returned a five-count indictment charging Griffith and co-defendant Jerry Ryals ("Ryals")[2] with one count of entering and remaining in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(1) (Count Two); one count of disorderly and disruptive conduct in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(2) (Count Three); one count of disorderly conduct in a Capitol building, in violation of 40 U.S.C. § 5104(e)(2)(D) (Count Four); and one count of parading, demonstrating, or picketing in a Capitol building, in violation of 40 U.S.C. § 5104(e)(2)(G) (Count Five). Dkt. 12.

**ARGUMENT**

Evidence is relevant if "it has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action." Fed. R. Evid. 401. "The general rule is that relevant evidence is admissible," *United States v. Foster*, 986 F.2d 541, 545 (D.C. Cir. 1993), a "liberal" standard, *United States v. Moore*, No. 18-cr-198, 2022 WL 715238, at *2 (D.D.C. Mar. 10, 2022). "Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court," while "Irrelevant evidence is not admissible." Fed. R. Evid. 402. Additionally, Rule 403 does not require the government "to sanitize its case, to deflate its witnesses' testimony or to tell its story in a monotone." *United States v. Gartmon,* 146 F.3d 1015, 1021 (D.C. Cir. 1998). Rules 401, 402, and 403 do not support the defendant's requested relief.

[2] In that same Indictment, co-defendant Ryals was additionally charged with one count of obstruction of an official proceeding and aiding and abetting, in violation of 18 U.S.C. § 1512(c)(2) and 2 (Count One). Dkt. 12 at 1. On May 6, 2022, pleaded guilty to a criminal Information charging him with Civil Disorder, in violation of 18 U.S.C. § 231(a)(3). Minute Entry dated May 6, 2022; Dkt. 61 at 1. On October 18, 2022, this Court sentenced Ryals to 9 months of incarceration and three years of supervised release; the Government dismissed the five counts of the Indictment. Minute Entry dated October 18, 2022.

## I. General Evidence of the Events of January 6 and the Actions of Other Rioters at the Capitol is Relevant.

Griffith argues that the Court should exclude "all evidence concerning conduct and statements of others who may have been in Mr. Griffith's general vicinity on January 6." Dkt. 95 Motion at 1. Although the defendant is only one participant in the events at the Capitol on January 6, evidence of the broader context of the events of the day is both relevant to, and probative of, the alleged offenses.

The government intends to introduce evidence through, among other witnesses, a U.S. Capitol Police Officer familiar with the Capitol Police procedures leading up to January 6, 2021, including the security cameras put in place. From the videos created by those cameras on January 6, 2021, the government has developed a comprehensive exhibit covering the events of the day. As the Certification proceeding at the Capitol began, a large crowd gathered outside the U.S. Capitol. Officers with the United States Capitol Police and the Metropolitan Police Department attempted to keep the crowd away from the building, but the crowd broke through several barriers on the West front just before 1:00 pm. Another crowd gathered on the East Plaza of the building, encroaching on the area where the motorcade that brought Vice President Pence to the Capitol was located. Shortly before 2:00 p.m., the crowd on the West Front broke into the scaffolding, which was set up to construct the inauguration stage. At 2:13 p.m., individuals in the crowd forced entry into the U.S. Capitol building itself on the West side near the Senate. In response to this intrusion, representatives, senators, and Vice President Pence evacuated their respective chambers around 2:20 p.m. For the next two hours, rioters flooded the building and the grounds, while police attempted to clear them out. The police finally cleared the Lower West Terrace of the Capitol at approximately 5:10 p.m.

To convict him, the Court must find that Griffith committed each offense with which he is specifically charged. It is not enough for the government to show that he was simply present near others who committed crimes across the Capitol building and grounds. But Griffith's argument ignores the nature of these crimes as a collective action. It was the rioting mob's collective action that disrupted Congress, and Griffith's knowledge of the collective riot bears on his *mens rea* for each of the charged offenses.

Evidence concerning the restricted Capitol buildings and grounds, the disruption of Congress and government business/functions there, the actions of other rioters in multiple areas of the Capitol, and the actions of Capitol Police with respect to the rioters, are all relevant to the elements of the crimes with which Griffith is charged. First, to prove Count Two (Entering and Remaining in a Restricted Building/Grounds) and Count Three (Disorderly and Disruptive Conduct in a Restricted Building or Grounds), the government must establish that there was a restricted area within the U.S. Capitol and its grounds and that it was unlawfully breached and that such conduct impeded and disrupted official government functions. Proving these charges requires presenting evidence involving the actions of other rioters at all locations of the Capitol building and grounds. As another judge in this District previously observed, "The government may argue that a wide range of actions—including actions that happened after the joint session had been suspended in light of the rioting mob that had entered the Capitol—'obstructed, influenced, or impeded' the joint session. *United States v. Brock*, No. CR 21-140 (JDB), 2022 WL 3910549, at *3 (D.D.C. Aug. 31, 2022). Therefore, the conduct of other rioters is both relevant and admissible.

Likewise, to prove Count Three, the government must prove that the defendant engaged in "disorderly or disruptive conduct" in a restricted area "when . . . such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions." 18 U.S.C.

§ 1752(a)(2). Evidence concerning the actions of other rioters and members of the mob establishes how and when the disruption occurred. "Membership in a mass of rioters is particularly likely to disrupt Congressional business. Even a peaceful crowd standing on the Floor of Congress is likely to shut down Congressional proceedings." *United States v. Grider*, 21-CR-00022 (CKK) Dkt. 150 at 25 (Dec. 21, 2022). Moreover, for Counts Two and Three, the government must prove the defendant knowingly engaged in certain conduct in a restricted area. Evidence of other rioters establishes that element by showing law enforcement efforts, both before and during the breach of the restricted area, attempting to keep unauthorized persons out of the restricted area. Similarly, for Counts Four and Five, the government must prove the defendant knowingly engaged in certain conduct near the floor of either House of Congress and/or in the Capitol Buildings. Evidence of actions taken by other rioters likewise establishes that element by showing law enforcement officers attempting to keep unauthorized persons away from and out of the floors of the Houses of Congress and the Capitol Building itself. Furthermore, to prove Count Five, the government must prove that the defendant "engage[d] in disorderly or disruptive conduct" with "the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress." Evidence of actions of other rioters at all locations of the Capitol building and grounds is relevant to prove that the disorderly and disruptive conduct occurring throughout the Capitol Building and grounds served to impede, disrupt, or disturb the orderly conduct of Congress.

The probative value of such evidence is even higher in a case such as this, when the defendant participated in disorderly and disruptive acts at a number of different locations within the Capitol Building itself. In any event, while the government does not anticipate focusing its evidentiary presentation on areas of the Capitol Griffith did not go, in order to show the overall riot, its effects, the context of Griffith's actions, and why the orderly conduct of a session of

Congress was disrupted was suspended, the government will need present evidence to show the actions of other rioters in various other areas of the Capitol building and grounds. None of the rioters were authorized to enter the Capitol. Law enforcement officer witnesses will explain that, in expelling rioters, they could not distinguish between those rioters who were overtly violent and those who were not; everyone had to leave. This is because law enforcement could not predict who would act violently; any member of the crowd might be a threat to them. Indeed, throughout the day, individual officers found their attention divided by the need to monitor the whole crowd, rather than focusing on a specific individual. But for Griffith's actions alongside so many others, the riot likely would have failed to disrupt or impeded the Government business. *United States v. Rivera*, 21-CR-00060 (CKK) Dkt. 62 at 13 (June 17, 2022) ("Indeed, even the presence of *one* unauthorized person in the Capitol is reason to suspend Congressional proceedings . . . . Many rioters collectively disrupted Congressional proceedings, and each individual rioter contributed to that disruption."); *United States v. Mazzocco*, No. 21-cr-54, Tr. 10/4/2021 at 25 ("A mob isn't a mob without the numbers. The people who were committing those violent acts did so because they had the safety of numbers.") (statement of Judge Chutkan). While a Court will judge Griffith based on his own actions, the context of his actions—an ongoing riot—is highly relevant to an evaluation of those actions.

Furthermore, the government's use of any potential summary witnesses or evidence to this effect would permissibly "help the [fact finder] organize and evaluate evidence which is factually complex and fragmentally revealed in the testimony of a multitude of witnesses throughout the trial." *See United States v. Lemire*, 720 F.2d 1327, 1348 (D.C. Cir. 1983). Any such aspects of the government's case would need to be "accurate and nonprejudicial[,]" *United States v. Fahnbulleh*,

752 F.3d 470, 479 (D.C. Cir. 2014), and require "a sufficient foundation[,]" *United States v. Mitchell*, 816 F.3d 865, 877 (D.C. Cir. 2016).

Finally, even if this Court found the actions of other rioters to be prejudicial, the appropriate remedy (in the context of a jury trial) would be a limiting instruction and not exclusion. The D.C. Circuit has consistently upheld the use of limiting instructions as a way of minimizing the residual risk of prejudice. *See, e.g.*, *United States v. Douglas,* 482 F.3d 591, 601 (D.C. Cir. 2007) (emphasizing the significance of the district court's instructions to jury on the permissible and impermissible uses of the evidence); *Pettiford*, 517 F.3d at 590 (same); *Crowder II*, 141 F.3d at 1210 (stating that mitigating instructions to jury enter into the Rule 403 balancing analysis). Here, in the context of a bench trial, the Court there is even less concern about the impact of prejudicial evidence. Because the actions of other rioters are relevant and not unduly prejudicial, admission of that evidence is warranted and appropriate.

## II. The Descriptors Accurately Describe the Events of January 6, and the Federal Rules of Evidence Do Not Preclude Them.

Griffith argues that the Court should bar terms like "rioters," "breach," "confrontation," "police line," "anti-government extremism," "insurrectionists," and "mob" to describe him and other individuals unlawfully at the U.S. Capitol on January 6 and their actions. Griffith's motion should be denied, because what took place at the Capitol on January 6, 2021, may be properly described as a riot, an insurrection, a breach, and a confrontation, and thus the individuals who participated in that riotous mob as "rioters," "insurrectionists," and members of a "mob." Thousands of people forced their way into the Capitol building during the constitutionally mandated process of certifying the Electoral College votes, threatened the peaceful transfer of power after the 2020 presidential election, injured more than one hundred law enforcement officers, and caused more than two million dollars in damage and loss. This was not a "protest" –

this was an insurrection. As Chief Judge Howell observed in denying a similar motion *in limine* in which the defendant sought to preclude the use of terms such as "insurrection," "riot," "attack," "rioters," "mobs," the "[d]efendant . . . does not grapple with the fact that the words also accurately describe the events that occurred on January 6, 2021" and explained that, in any event, the "terms also overlap with elements of the charged offenses . . . . *Obstructing, influencing, or impeding an official government proceeding with intent to disrupt an electoral vote is a revolt against an established government, or an insurrection.*" *United States v. Vincent Gillespie*, 22-CR-00060-BAH, ECF 43 at 5-6 (emphasis added); *see also United States v. Paul Hodgkins*, 21-cr-188-RDM, Tr. at 46 ("I don't think that any plausible argument can be made defending what happened in the Capitol on January 6th as the exercise of First Amendment rights.") (statement of Judge Moss).[3]

Evidence or language is unfairly prejudicial if it has "an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one." *United States v. Sanford Ltd.*, 878 F. Supp. 2d 137, 143 (D.D.C. 2012) (quoting Fed. R. Evid. 403, advisory committee's note). By their very nature, criminal charges involve an accusation that someone has wronged another person or has wronged society. Accordingly, such charges arouse emotion—and there is nothing improper about that. Indeed, while cautioning against prosecutorial misconduct in *United States v. Berger*, the Supreme Court simultaneously recognized that "[t]he United States Attorney . . . may prosecute with earnestness and vigor—indeed, he should do so." *Berger*, 295 U.S. 78, 88 (1935). "[T]he law permits the prosecution considerable latitude to strike 'hard blows'

[3] Likewise, in *United States v. James Doughlas Rahm, Jr.*, 21-CR-00150-TFH, the defendant sought to preclude the government and its witnesses from using terms such as "terrorists," "terrorist attack," "rioters," "breach," "assault," "insurrection," or "carnage" to describe the events of January 6. ECF 35. Judge Hogan denied the motion without prejudice. Minute Order dated August 15, 2022. The defendant was subsequently found guilty after a stipulated bench trial. Minute Order dated October 13, 2022.

based on the evidence and all reasonable inferences therefrom." *United States v. Rude*, 88 F.3d 1538, 1548 (9th Cir. 1996) (*quoting United States v. Baker*, 10 F.3d 1374, 1415 (9th Cir. 1993)). When a prosecutor's comments fairly characterize the offense, fairly characterize the defendant's conduct, and represent fair inferences from the evidence, they are not improper. *Cf. Rude*, 88 F.3d at 1548 (the use of words like victim, deceit, outlandish, gibberish, charlatan, and scam was not improper); *Guam v. Torre*, 68 F.3d 1177, 1180 (9th Cir. 1995) ("[T]here is no rule [of evidence or ethics] requiring the prosecutor to use a euphemism for [a crime] or preface it by the word 'alleged.'").

Here, the government should not be required to dilute its language and step gingerly around Griffith's crimes. Contrary to Griffith's insinuations, what took place on January 6, 2021, was, in fact, a riot involving rioters, and an attack on the United States Capitol, the government of the United States, and American democracy. After carefully considering the facts of other January 6 cases, many members of this Court have recognized the riot as just such an attack. *See*, *e.g.*, *United States v. Vincent Gillespie*, 1:22-cr-00060 (BAH) (collecting cases in which the D.C. Circuit and numerous Judges of this Court have used such terms throughout the January 6 proceedings to describe the events at the U.S. Capitol); *United States v. Brock*, 1:21-cr-00140 (JDB) Trial Tr. 5, 16-17 , Nov. 16, 2022 (describing the defendant as participating "in the riot at the United States Capitol on January 6th"; the various barricades that were "breached by the thousands of rioters . . . . Mr. Brock was part of that mob"; and the "rioters entering through those broken glass windows"); *United States v. Mostofsky*, 1:21-cr-138 (JEB), Sent. Tr. at 40–41, May 6, 2022 (describing the riot as an "attack," describing the Capitol as "overrun," and describing Mostofsky and other rioters as engaged in "an attempt to undermine [our] system of government."); *United States v. Rubenacker*, 1:21-cr-193 (BAH), Sent. Tr. at 147–48, May 26, 2022 (describing the defendant as "part of this

vanguard of people storming the Capitol Building" as part of the initial breach, and finding that his conduct "succeeded, at least for a period of time, in disrupting the proceedings of Congress to certify the 2020 presidential election"); *United States v. Languerand*, 1:21-cr-353 (JDB), Sent. Tr. at 33–34, January 26, 2022 ("[T]he effort undertaken by those who stormed the Capitol . . . involved an unprecedented and, quite frankly, deplorable attack on our democratic institutions, on the sacred ground of the United States Capitol building, and on the law enforcement officers who were bravely defending the Capitol and those democratic values against the mob of which the defendant was a part.").

None of this language is hyperbole; rather, these findings used vivid and violent language because they described a visceral and violent event. "While these terms could trigger emotional responses in some individual, the mere use of these terms does not, at this stage, signal prejudice substantially outweighing their probative value. Thus, muzzling the government and witnesses from employing commonly used phrases to describe the events on January 6, 2021, is impractical and does not amount to unfair prejudice in violation of Federal Rule 403." *United States v. Vincent Gillespie*, 22-CR-00060-BAH, ECF 43 at 6-7. Prosecutors also need to use appropriate language—and not euphemisms—to describe accurately the nature and gravity of Griffith's conduct.

Griffith also argues that the Government should be precluded under Fed. R. Evid. 404(a) from eliciting character evidence. In essence, Griffith argues that his character should not be labeled as "anti-government" or "anti-law enforcement" by his association with the actions of other rioters on January 6, 2021. Rule 404(a)(1) generally prohibits "[e]vidence of a person's character or character trait . . . to prove that on a particular occasion the person acted in accordance with the character or trait." Fed. R. Evid. 404(a)(1).

The government does not plan to elicit evidence of Griffith's political views to demonstrate his character, to describe those views as "extremist" or "anti-government," or to suggest that those views suggest a propensity to act as Griffith did on January 6, 2021. However, the government should not be precluded from introducing evidence describing Griffith's political views that, depending on the development of the facts at trial, tend to establish his motive, planning, knowledge, and intent on January 6, 2021. *See United States v. McDowell*, 762 F.2d 1072, 1075 (D.C. Cir. 1985) (per curium) (holding that a bulletproof vest did not violated Fed. R. Evid. 404(a) where it "was not offered to prove a bad character and thus, by inference, a propensity to commit crimes" but was "squarely relevant on the issue of intent"); *cf.* Fed. R. Evid. 404(b)(2) (permissible uses of prior bad acts evidence include proving "motive, opportunity, intent, preparation, plan, [and] knowledge . . ."). In other words, Griffith's political views may become directly relevant to establishing the elements of the offenses, such as his intent to "impede or disrupt the orderly conduct of Government business or official functions," 18 U.S.C. § 1752(a)(2), or his "intent to impeded, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress," 40 U.S.C. § 5104(e)(2)(D). Griffith's motion to preclude use of the terms "extremist" or "anti-government" as improper character evidence is thus misdirected and should be denied.

**III. Defendant's Motion in Limine as to Certain Subjects (Dkt. 92 Motion).**

1. The government does not plan to elicit evidence regarding news reports regarding police personnel that died.
2. The government does not plan to elicit evidence regarding former President Trump's various lawsuits regarding the election. However, the government should not be precluded from introducing evidence describing Griffith's views (political or otherwise) of the election results generally that, depending on the development of the

facts at trial, tend to establish his motive, planning, knowledge, and intent on January 6, 2021. *See United States v. McDowell*, 762 F.2d 1072, 1075 (D.C. Cir. 1985) (per curium) (holding that a bulletproof vest did not violate Fed. R. Evid. 404(a) where it "was not offered to prove a bad character and thus, by inference, a propensity to commit crimes" but was "squarely relevant on the issue of intent"); *cf.* Fed. R. Evid. 404(b)(2) (permissible uses of prior bad acts evidence include proving "motive, opportunity, intent, preparation, plan, [and] knowledge . . .").

3. The government does not plan to elicit evidence regarding the Proud Boys, Patriot Boys, Three Percenters or Oath Keepers.
4. The government *does* intend to introduce photographs taken by Griffith in the Capitol on January 6. Such photographs are highly probative of Griffith's presence in the Capitol on January 6.
5. The government does not plan to elicit evidence regarding Griffith's mug shot.
6. As noted above, while the government does not anticipate focusing its evidentiary presentation on areas of the Capitol Griffith did not go, in order to show the overall riot, its effects, the context of Griffith's actions, and why the orderly conduct of a session of Congress was disrupted was suspended, the government will need present evidence to show the actions of other rioters in various other areas of the Capitol building and grounds. Moreover, references to violence at such locations are unlike to inflame the Court during what is now scheduled to be a bench trial. Evidence of violence and disorderly conduct is directly relevant to elements of the charged offenses here, and "now that the parties have consented to a bench trial, there is little risk of inflaming the trier of fact or need to exclude evidence as unfairly prejudicial." *United*

*States v. Egtvedt*, 21-cr-177 (CRC) Dkt. 93 at 24 (citing *United States ex rel. Morsell v. NortonLifeLock, Inc.*, 567 F. Supp. 3d 248, 258 (D.D.C. 2021))

## CONCLUSION

For the reasons set forth above, the defendant's motion should be denied except for issues 1, 3, and 5 of the Dkt. 92 Motion.

Respectfully submitted,

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