

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

Crim. Action No. 21-377 (BAH)

v.

ANTHONY WILLIAMS,

Defendant.

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**RESPONSE TO GOVERNMENT MOTION TO PRECLUDE
DEFENSE ARGUMENTS AND EVIDENCE (DKT 37)**

The government moves to exclude Anthony Williams from arguing about alleged inaction by law enforcement officers unless Mr. Williams specifically observed or was aware of the conduct. (Dkt. 37.) The motion essentially seeks a ruling in advance of trial on the merits of potential defenses before any evidence is offered. Such a ruling is premature. This Court should deny the motion.

Argument

The government argues that this Court should preclude three categories of arguments: (1) that Williams has a defense of entrapment by estoppel, (2) that inaction by law enforcement rendered Williams's conduct lawful, and (3) that any inaction by law enforcement of which Williams was unaware has bearing on his case.

As to the first two categories, Williams acknowledges the reasoning in *United States v. Chrestman*, 525 F. Supp. 3d 14, 31 (D.D.C. 2021), regarding entrapment by estoppel and inaction by law enforcement rendering conduct lawful. However, *Chrestman* was a bond case forecasting the potential success of these arguments at trial; it did not address whether to preclude any

argument on these topics. There has been no testimony yet taken in this case. To preclude categories of topics for argument and cross-examination before any testimony by officers is not appropriate.

As to the third category, the government's motion is premature and sweeps too broadly. The government "concedes that the conduct of law enforcement officers may be relevant to the defendant's state of mind on January 6, 2021." (Dkt. 37, at 3.) Yet it argues that any conduct of which Williams was unaware is not relevant to his case.

The problem with issuing an order before trial precluding such arguments is that the exact inaction by law enforcement of which Williams was aware will not be known until after he testifies, if he chooses to do so. During the government's case-in-chief, the government will not know what Williams knew or did not know on January 6, 2021. Therefore, it is premature to prevent defense counsel from arguing about officer inaction or asking testifying officers about what they did or did not do to prevent entry into the Capitol on January 6. This portion of the government's request should be denied.

Conclusion

Mr. Williams requests that the Court deny the government's motion in limine to limit questioning and argument about officer inaction.

Respectfully submitted,

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