

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

UNITED STATES OF AMERICA,

V.

COUY GRIFFIN,

Defendant.

Case No. 1:21-cr-92

Judge Trevor N. McFadden

**DEFENDANT GRIFFIN'S NOTICE OF GOVERNMENT'S INCONSISTENT
RESTRICTED AREA POSITION IN *UNITED STATES v. CHRISTOPHER KELLY***

Defendant Griffin, through his counsel, files this notice of the government's dismissal of charges under 18 U.S.C. § 1752 in *United States v. Christopher Kelly*, 21-mj-128 (D.D.C. 2021).

The defendant in that case was charged under § 1752 for allegedly entering the Capitol Building on January 6, a “restricted building.” 21-mj-128, ECF No. 1-1. Today, the government moved to dismiss that charge on the ground that it “serves the interests of justice.” 21-mj-128, ECF No. 14.

A law enforcement official subsequently informed the news media of the reason for the dismissal of the charge. “Since [Kelly] was not inside [the Capitol Building], in the interest of consistency in the investigation, the charges were dropped,” the law enforcement official said.

Feds move to drop charges for Capitol riot defendant, Politico, June 1, 2021, available at: <https://www.politico.com/news/2021/06/01/feds-capitol-riot-defendant-491514>.

Since this development followed briefing on Griffin’s motion to dismiss, Griffin respectfully requests that the Court take it into account in considering his arguments concerning arbitrary enforcement of § 1752, in light of the government’s concession that Griffin did not enter the Capitol Building.

Dated: June 1, 2021

Respectfully submitted,

DAVID B. SMITH, PLLC

/s/ David B. Smith

David B. Smith (D.C. Bar No. 403068)

108 N. Alfred St.

Alexandria, VA 22314

Phone:(703)548-8911

Fax:(703)548-8935

dbs@davidbsmithpllc.com

Nicholas D. Smith (D.C. Bar No. 1029802)

7 East 20th Street

New York, NY 10003

Phone: (917) 722-1096

nds@davidbsmithpllc.com

Attorneys for Couy Griffin

Certificate of Service

I hereby certify that on the 1st day of June, 2021, I filed the foregoing notice with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

JANANI IYENGAR
Assistant United States Attorney
555 4th Street, N.W., Room 4408
Washington, D.C. 20530
(202) 252-7846

And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith
David B. Smith, VA Bar No. 25930
David B. Smith, PLLC
108 North Alfred Street, 1st FL
Alexandria, Virginia 22314
(703) 548-8911 / Fax (703) 548-8935
dbs@davidbsmithpllc.com
Appointed by the Court