

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 22-cr-38-BAH
	:	
JOLENE EICHER,	:	
	:	
Defendant.	:	

JOINT PRETRIAL STATEMENT

Pursuant to the Order of this Court, dated April 17, 2023, the parties hereby jointly submit this pretrial statement in advance of the June 5, 2023 trial in this matter.

A. Status of Plea Offers

The government extended a formal plea offer to resolve this case on or about April 18, 2022, in a written proposed plea agreement and an accompanying statement of offense. The plea offer expired on May 18, 2022. Defendant Eicher has rejected the plea offer.

The terms of the plea offer were as follows: Eicher would plead guilty to Count Four of the Superseding Information, charging her with Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G); and the government would move to dismiss all remaining counts of the Superseding Information at sentencing.

Eicher understands that the potential sentencing exposure in the event she accepted that plea offer was a maximum of 6 months' imprisonment, 5 years' probation, a \$5000 fine, and a \$10 special assessment. Because the plea offer was to a single Class B Misdemeanor, the sentencing guidelines would not apply.

Eicher also understands that, having rejected the plea offer, the potential sentencing exposure is a maximum of three years' imprisonment (maximum 6 months each for the Class B

misdemeanors charged in Counts One and Two; maximum 1 year's imprisonment each for the Class A misdemeanors charged in Counts Three and Four); a term of probation of not more than five years for each of the Class B misdemeanors charged in Counts Three and Four, pursuant to 18 U.S.C. § 3561(c); a term of supervised release of not more than 1 year on each of the four charged Counts, pursuant to 18 U.S.C. § 3583(b)(3); a fine of not more than a total of \$210,000 (\$100,000 for each Class A misdemeanor pursuant to 18 U.S.C. § 3571(b)(5) and \$5,000 for each Class B misdemeanor pursuant to 18 U.S.C. § 3571(b)(6)); and a special assessment of \$70 (\$25 per each of the two Class A misdemeanors and \$10 for each of the two Class B misdemeanors).

B. Joint Statement of the Case

The United States has charged defendant Jolene Eicher with violating four separate federal criminal laws for her actions on restricted Capital grounds and in the United States Capitol building on January 6, 2021. Specifically, the United States alleges that Jolene Eicher traveled to Washington, D.C. on January 6, 2021 and that she then entered and remained in a restricted building or grounds. The United States alleges that she engaged in disorderly and disruptive conduct in the restricted building or grounds, disorderly conduct in the Capitol Building, and that she paraded, demonstrated, or picketed in the Capitol Building.

C. Proposed Voir Dire Questions

The parties' joint-proposed voir dire questions are set forth in Exhibit 1. Defendant has also requested additional voir dire questions, as indicated in Exhibit 1.

D. Proposed Jury Instructions

The parties' proposed jury instructions are set forth in Exhibit 2. Defendant also proposes the additional instructions in Exhibit 2. The government objects to defendant's proposed instructions.

E. List of Expert Witnesses

The parties do not plan to present testimony from expert witnesses at trial.

F. List of Motions in Limine

The United States submitted the following motions in limine:

1. Motion *in Limine* to Restrict Cross-Examination on United States Capitol Police Camera Locations and Positions (ECF No. 49).
2. Motion *in Limine* to Limit Cross-Examination of United States Secret Service Witness (ECF No. 50).
3. Motion *in Limine* to Preclude Evidence or Argument about Public Authority (ECF No. 51).

Defendants have submitted the following motion in limine:

1. Motion *in Limine* to Prohibit the Government from Arguing or Eliciting Testimony Suggesting Ms. Eicher is Part of the "Alt-Right," is an Extremist, or is on a Watch-List (ECF No. 52).

G. List of Prior Convictions

Defendants has no prior convictions.

H. List of Government Exhibits and Witnesses

The list of government exhibits is attached as Exhibit 3.

At this time, the United States has identified the majority of exhibits it intends to use at trial. The exhibit list was compiled in a good-faith effort to identify all trial evidence that is known or identified at this time. The government reserves the right to supplement this list or to remove items from the list, as it develops additional evidence throughout trial preparations and to streamline the presentation of its case. The government also reserves the right to introduce any evidence produced to the defense in discovery.

The government has also identified the witnesses it intends to call at trial at this time. Those witnesses could change based on the agreed stipulations of the parties or the availability of witnesses for either the June 5 or June 12, 2023 trial dates.

I. Stipulations

The government has provided proposed stipulations for trial. The parties have agreed to one of the proposed stipulations regarding the certification of the electoral college vote, and the parties submit that they will continue discussing possible stipulations relating to the trial and working toward agreement where possible.

J. Proposed Verdict Form

A proposed verdict form is attached as Exhibit 4.

Dated: May 5, 2023

FOR THE DEFENDANT

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Defendant

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