## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
v.	)	Case. No. 21-287-1 (TNM)
KEVIN SEEFRIED	)	
Defendant.	)	

## DEFENDANT'S MOTION FOR LEAVE TO LATE-FILE

Defendant Kevin Seefried, respectfully moves this Court for leave to late-file a Motion in Limine (ECF No. 79), which this Court denied as untimely. Minute Order, 6/6/2022. Undersigned counsel was remiss in failing to file an accompanying Motion for leave to file the Motion *in Limine* after the motions deadline of April 8, 2022. The reason counsel filed the Motion *in Limine* after the deadline is that the Motion responds to proposed exhibits and the government's response to a bill of particulars, disclosed on May 31, and June 1, 2022, respectively. Counsel now respectfully moves the Court for permission to late-file and to reconsider its Order denying the Motion *in Limine* as untimely and instead consider the Motion on its merits. In support of this Motion, counsel state:

- Mr. Seefried is charged by Indictment with various offenses arising out of his presence at the Capitol on January 6, 2022. A bench trial was is scheduled for June 13, 2022. A motions deadline of April 8, 2022, was set by the Court.
- 2. Discovery has been provided on an ongoing basis. On May 18, 2022, the government began identifying video clips that it intends to introduce a trial. The government completed this disclosure on May 31, 2022. On May 19, 2022, undersigned counsel requested a bill of particulars for: 1) the factual theory of the corrupt intent required by

Count One, the 1512 offense; 2) the factual theory for the violent and disorderly conduct required in Counts Two through Four; and 3) the factual theory for the intent to impede an orderly session of Congress alleged in Count Four. On June 1, 2022, the government responded with, for the first time, its factual theory for charging Mr. Seefried as both a principle and an aidor and abettor on Count One (Obstruction of Justice). There, the government clarified that it alleges that Mr. Seefried "join[ed] with and encourage[d] others, to prevent the Certification proceeding from occurring at the time prescribed by law...." Gov. Resp. to Request for Bill of Particulars. For the first time, the government articulated the factual basis for its aiding and abetting theory as follows:

In particular, evidence at trial will show that each defendant joined with a group of individuals who were targeting members of Congress and that each defendant's actions – individually and in concert with others – aimed to prevent lawmakers from fulfilling their constitutional responsibilities by participating in the Certification proceeding. Specifically, each defendant violently and unlawfully entered the U.S. Capitol and joined with others who intended to prevent lawmakers from fulfilling their constitutional responsibilities by participating in the Certification proceeding.

Id.

- 3. In response to the proposed exhibits and government's bill of particulars, undersigned counsel filed a Motion in Limine to exclude evidence of spontaneous acts of others of which Mr. Seefried was not aware. See ECF No. 79. The Motion was in direct response to the government's recent disclosures. Undersigned counsel failed to file an accompanying Motion for leave to late-file. The Court denied the Motion as untimely.
- Undersigned counsel apologizes for failing for moving for permission to late-file and
  respectfully submits the instant Motion and moves the Court to reconsider its Order
  denying the Motion as untimely.

Wherefore, the foregoing reasons and any others that appear to the Court, Mr. Seefried moves the Court for permission to late-file a Motion *in Limine*, currently docketed as ECF. No. 79 and respectfully moves the Court to consider the Motion on its merits.

Respectfully submitted,

A. J. KRAMER FEDERAL PUBLIC DEFENDER

/s/

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