

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

**UNITED STATES OF AMERICA**

**V.**

**JOSHUA CHRISTOPHER DOOLIN,  
MICHAEL STEVEN PERKINS,  
OLIVIA MICHELE POLLOCK**

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**CRIMINAL NUMBER 21-447-03, 04, 05**

**ORDER**

**AND NOW**, this            day of            , 2023, upon consideration of the Joint Defense Motion in Limine to Preclude Video and Other Evidence, it is hereby **ORDERED** that the Motion is **GRANTED**.

**BY THE COURT:**

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**THE HONORABLE CARL J. NICHOLS**  
United States District Court Judge

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**CRIMINAL NUMBER 21-447-03, 04, 05**

**JOINT DEFENSE MOTION IN LIMINE  
TO PRECLUDE VIDEO AND OTHER EVIDENCE**

Joshua Christopher Doolin, Michael Steven Perkins, and Olivia Michele Pollock, by and through their attorneys, respectfully move to preclude the government from introducing video and other evidence pertaining to Jonathan Daniel Pollock and Joseph Daniel Hutchinson, III. As this Court is aware, five individuals are named in the Superseding Indictment. Defendant Jonathan Pollock has not been apprehended. On January 25, 2023, this Court severed defendant Hutchinson from the remaining three defendants, Joshua Christopher Doolin, Michael Steven Perkins, and Olivia Michele Pollock, as Mr. Hutchinson is proceeding *pro se*. Mr. Doolin, Mr. Perkins, and Ms. Pollock are scheduled to begin trial on March 6, 2023.

As all parties recognize, the discovery in this case is extremely voluminous. Hundreds, if not thousands of hours of video from body worn cameras, security surveillance, and open sources have been provided to defense counsel. Many of the videos provided to the defense counsel exclusively show the conduct of Mr. Pollock and/or Mr. Hutchinson. During the status hearing on January 25, 2023, the government represented that the Court’s decision to sever Mr. Hutchinson from the three remaining defendants does not substantially affect the length of their case-in-chief, suggesting that the government intends to introduce evidence of the conduct of Mr.

Pollock and Mr. Hutchinson on and around January 6, 2021. Such evidence is not relevant to the prosecution of Mr. Doolin, Mr. Perkins, and Ms. Pollock. Additionally, the evidence is cumulative and could cause unnecessary delay. Furthermore, it is highly prejudicial to the defendants on trial and could confuse the jury. As such, the defense respectfully requests that the Court preclude the government from introducing video and other evidence at trial pertaining to the conduct of Jonathan Pollock and Joseph Hutchinson on or around January 6, 2021.

Evidence is relevant when it is introduced “to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Fed. R. Evid. 401. “In evaluating the admissibility of proffered evidence on a pretrial motion in limine the court must assess whether the evidence is relevant and, if so, whether it is admissible, pursuant to Federal Rules of Evidence 401 and 402.” *Daniels v. District of Columbia*, 15 F. Supp. 3d 62, 66 (D.D.C. 2014). Under Rule 402, only relevant evidence is admissible. 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.” *United States v. Oseguera Gonzalez*, 507 F. Supp. 3d 137, 146 (D.D.C. 2020) (quoting Fed. R. Evid. 401).

However, even if the Court finds that the evidence is relevant to the charged offenses, the evidence must be excluded as overly prejudicial under Rule 403. Relevant evidence may still be excluded by a court if “its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” *United States v. Wilkins*, 538 F. Supp. 3d 49, 63 (D.D.C. 2021). Rule 403 renders relevant evidence inadmissible only upon a

showing that it presents a risk of “unfair prejudice,” *i.e.*, prejudice that is “compelling or unique,” or has “an undue tendency to suggest decision on an improper basis.” *United States v. Oseguera Gonzalez*, 507 F. Supp. 3d 137, 146–47 (D.D.C. 2020) (quoting *United States v. Mitchell*, 49 F.3d 769, 777 (D.C. Cir. 1995) and *United States v. Ring*, 706 F.3d 460, 472 (D.C. Cir. 2013)). Thus, under Rule 403, the court must “engage in on-the-spot balancing of probative value and prejudice and . . . exclude even factually relevant evidence when it fails the balancing test.” *United States v. Moore*, 651 F.3d 30, 63 (D.C. Cir. 2011) (internal quotation marks omitted) (citation omitted). This balancing test “requires a fact-intensive, context-specific inquiry.” *United States v. Mosquera-Murillo*, 153 F. Supp. 3d 130, 175 (D.D.C. 2015) (quoting *Sprint/United Mgmt. Co.*, 552 U.S. at 388). “Importantly, ‘[u]nfair prejudice’ within [the Rule 403] context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” *Id.* (quoting *Ring*, 706 F.3d at 472).

The discovery produced to defense counsel contains video and other evidence of the conduct of Mr. Pollock and Mr. Hutchinson in and around the events at the United States Capitol on January 6, 2021. Mr. Pollock is the lead defendant on the indictment, followed by Mr. Hutchinson. They are each charged with more severe conduct than the remaining defendants. Mr. Pollock is charged in 17 out of the 27 counts of the superseding indictment, ten of which are felonies including seven counts of assault in violation of 18 U.S.C. § 111(a) and/or (b), and three counts of violating 18 U.S.C. § 231(a)(3). Mr. Hutchinson is charged in seven counts including three counts of assault in violation of 18 U.S.C. § 111(a) and one count of violating 18 U.S.C. § 231(a)(3). In counts 3 and 4 of the superseding indictment, Mr. Pollock and Mr. Hutchinson are charged with aiding and abetting.

By contrast, Mr. Doolin is charged with only one felony (Count 18) and four misdemeanors (Counts 16, 17, 22, and 24). Mr. Perkins is charged in two felony counts (Counts 1 and 7) and four misdemeanor counts (Counts 21, 23, 25, and 27). Ms. Pollock is charged in two felony counts (Counts 1 and 13) and four misdemeanors counts (Counts 22, 24, 26, and 27). Neither Mr. Doolin, Mr. Perkins, nor Ms. Pollock are charged with aiding and abetting. No one is charged with conspiracy.

Evidence of the conduct of Mr. Perkins and Mr. Doolin in and around the events of January 6, 2021, are not relevant to the prosecution of Mr. Doolin, Mr. Perkins, or Ms. Pollock. Even if the government can articulate a relevant reason to introduce evidence of their conduct, the prejudice to Mr. Doolin, Mr. Perkins, and Ms. Pollock far outweighs any relevance. Additionally, such evidence would be cumulative and could serve to confuse the jury.

**WHEREFORE**, the defense respectfully requests this Court preclude the government from introducing video and other evidence pertaining to Jonathan Daniel Pollock and Joseph Daniel Hutchinson, III, at the trial of the remaining defendants Joshua Christopher Doolin, Michael Steven Perkins, and Olivia Michele Pollock. Should the government seek to admit such evidence, the defense jointly requests a pretrial hearing on the specific video or other evidence they seek to admit so the Court can properly rule on its admissibility.

Respectfully submitted,

*/s/ Nancy MacEoin*  
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**CERTIFICATE OF SERVICE**

I, Nancy MacEoin, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I filed the attached Joint Defense Motion in Limine to Preclude the Government from Introducing Video and Other Evidence via the Court's Electronic Filing (ECF) system which sent notification to Benet J. Kearney, Assistant United States Attorney, One Saint Andrew's Place, New York, New York 10007, via her email address [Benet.Kearney@usdoj.gov](mailto:Benet.Kearney@usdoj.gov).

*/s/ Nancy MacEoin*  
NANCY MacEOIN  
Assistant Federal Defender

DATE: January 27, 2023