

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

UNITED STATES OF AMERICA)
)
) Case No. 1:21-cr-00263-TSC
)
v.)
)
RUSSELL DEAN ALFORD)

**MOTION IN LIMINE TO PRECLUDE
REFERENCES TO OFFENSES AS MISDEMEANORS**

The Defendant, Russell Dean Alford, moves in limine for an order that the parties may not, and must instruct their witnesses not to, refer to any of the charged offenses as a “misdemeanor” in the jury’s presence.

References to the charges as misdemeanors could cause jurors to minimize, consciously or not, the consequences of their verdict. That would inject an improper consideration into jury deliberations. “In non-capital cases, fixing punishment is not the function of the jury; rather, the jury’s sole function is to ascertain guilt or innocence[,] . . . not to consider the potential punishment which could result from a conviction.” *United States v. Broxton*, 926 F.2d 1180, 1183 (D.C. Cir. 1991) (per curiam) (citing *United States v. Patrick*, 494 F.2d 1150, 1153 (D.C. Cir. 1974); *United States v. Cox*, 696 F.2d 1294, 1298 (11th Cir. 1983)).

The jury’s factfinding should not be clouded by a belief that its verdict will not carry serious consequences. Mr. Alford asks the Court to promote that interest by ordering that the parties and witnesses not refer to the charged offenses as misdemeanors in the jury’s presence.

Respectfully submitted,

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/s/ James T. Gibson

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2022, I electronically filed the foregoing via this Court's CM/ECF system, which will send notice of such filing to all counsel of record.

Respectfully submitted,

/s/ Tobie J. Smith

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