

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA  
Case No.: 21-CR-026 (CRC)

UNITED STATES OF AMERICA,  
Plaintiff,

v.

Case No. 21-cr-026 (CRC)

CHRISTOPHER MICHAEL ALBERTS  
Defendant.

\_\_\_\_\_ /

ALBERTS PROPOSED JURY INSTRUCTION ON JUSTIFIED USE OF FORCE

COMES NOW, Defendant, CHRISTOPHER MICHAEL ALBERTS, (hereinafter, “Defendant” or “Alberts”), by and through undersigned counsel, with this proposed jury instruction on justified use of force.

**Proposed Instruction No. \_\_**

**ASSAULT ON FEDERAL OFFICER OR EMPLOYEE—DEFENSES**

The defendant asserts that [he] [she] acted in self-defense and defense of others. It is a defense to the charge if (1) the defendant did not know that Officer Shauni Kerkhoff, Sergeant Adam DesCamp, Sergeant Matthew Flood, Officer Eugene Goodman, Officer Stephen Sherman, Officer Brett Sorrell, or Inspector Amy Hyman were federal officers, (2) the defendant reasonably believed that use of force was necessary to defend oneself or others against an immediate use of excessive force, and (3) the defendant used no more force than appeared reasonably necessary in the circumstances.

In addition to proving all the elements of the crime beyond a reasonable doubt, the government must also prove beyond a reasonable doubt either (1) that the defendant knew that Officer Shauni Kerkhoff, Sergeant Adam DesCamp, Sergeant Matthew Flood, Officer Eugene Goodman, Officer Stephen Sherman, Officer Brett Sorrell, or Inspector Amy Hyman [name of federal officer or employee were federal officers or (2) that the defendant did not reasonably believe force was necessary to defend against an immediate use of unlawful force or (3) that the defendant used more force than appeared reasonably necessary in the circumstances.

Note: In *United States v. Span*, 970 F.2d 573 (9th Cir.1992), the Ninth Circuit upheld this instruction. The court cautioned, however, that "the model instruction would be inappropriate in a case where a defendant's theory of the case is self-defense against the use of excessive force by a federal law enforcement officer." *Id.* at 577 (emphasis in original). In such a case, the instruction must be modified appropriately.

RESPECTFULLY SUBMITTED,

/s/ Roger Roots

Roger I. Roots, esq.

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CERTIFICATE OF SERVICE

I hereby certify and attest that on April 18, 2023, I caused this document to be uploaded into this Court's electronic filing system, thereby serving it upon all parties of record.

/s/ Roger Roots