

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

UNITED STATES OF AMERICA)	
)	Criminal No. 21-204 (BAH)
v.)	Chief Judge Howell
)	Trial: July 18, 2022
MATTHEW BLEDSOE)	

**NOTICE REGARDING OBJECTIONS
TO GOVERNMENT’S PROPOSED EXHIBITS**

COMES NOW the defendant, Matthew Bledsoe, by and through undersigned counsel, and respectfully notifies the Court and the government of his intent to object to the admission of many of the exhibits that the government has indicated it will seek to introduce into evidence against him at trial. Towards this end, Mr. Bledsoe would show:

1. In connection with the events of January 6, 2021 at the United States Capitol, Mr. Bledsoe has been charged in a five-count indictment (Indictment) (ECF #23) in this case. The counts of the Indictment are as follows: 1) Obstruction of an Official Proceeding and Aiding and Abetting (18 U.S.C. §§ 1512(c)(2) and 2); 2) Entering and Remaining in a Restricted Building or Grounds (18 U.S.C. § 1752(a)(1)); 3) Disorderly or Disruptive Conduct in a Restricted Building or Grounds (18 U.S.C. § 1752(a)(2)); 4) Disorderly Conduct in a Capitol Building (40 U.S.C. § 5104(e)(2)(D)); and 5) Parading, Demonstrating, or Picketing in a Capitol Building (40 U.S.C. § 5104(e)(2)(G)).

2. On June 14, 2022, the parties submitted a Joint Pretrial Statement (ECF #201). Attached to the Joint Pretrial Statement was a list of 169 exhibits that the government may seek to use against Mr. Bledsoe at trial. Joint Pretrial Statement, Exhibit C. These exhibits include phone text messages that Mr. Bledsoe sent and received and posts that he and others made on Facebook/Instagram. Also, they include videos that allegedly capture Mr. Bledsoe at the Capitol on January 6, 2021. See id. For a number of these exhibits, Mr. Bledsoe has stipulated to their authenticity. See Joint Pretrial Statement, Exhibit E. However, Mr. Bledsoe has not stipulated to

the relevancy and admissibility of any of the Exhibits. It should be noted that a great many of the exhibits listed in Exhibit C of the joint Pretrial Statement do not directly relate to what happened at the Capitol on January 6, 2021. At this point, the government has not yet sought to establish the relevancy and admissibility of any of the exhibits listed in Exhibit C of the Joint Pretrial Statement.

3. Under Fed. R. Evid. 401(b), evidence is only relevant if it helps to establish a “fact [that] is of consequence in determining the action.” Under Fed. R. Evid. 402, “[i]rrelevant evidence is not admissible.” And under Fed R. Evid. 403, a court “may exclude evidence 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.”

4. In a hope to make the trial in this case run more efficiently, Mr. Bledsoe now notifies the Court and the government that he does intend to challenge the relevancy and admissibility of many of the exhibits listed in Exhibit C of the Joint Pretrial Statement. Additionally, in a hope to illustrate the nature of some of the challenges to the exhibits he plans to make, Mr. Bledsoe now addresses several of the exhibits he thinks are either not relevant under Rule 401 or, if they are deemed to be relevant, inadmissible under Rule 403 because their probative value would nevertheless be “substantially outweighed by a danger of... unfair prejudice, confusing the issues, misleading the jury, ...[or] needlessly presenting cumulative evidence.”

A. Posts Mr. Bledsoe made to Facebook/Instagram in early November 2020 about the presidential election having been stolen

Joint Pretrial Statement, Exhibit C lists several exhibits that consist of individual posts that Mr. Bledsoe allegedly made to Facebook/Instagram in early November 2020 that express a belief that the election had been stolen from Donald Trump. Exhibits 2, 3, 4, 5, 6, 7, 8, 9, and 18. It is guessed that the government will argue that these posts show that, when Mr. Bledsoe

allegedly went to the Capitol on January 6, he was intending to prevent Congress from certifying the Electoral College votes and making Joseph Biden president. However, the posts were made two months before January 6, 2021, and there is no evidence that they were even made with an awareness of the fact that a congressional hearing to certify the Electoral College votes would be held on January 6, 2021. Moreover, just because a person is of the opinion that the presidential election was stolen is not evidence of any intent on his part to engage in any conduct whatsoever.

B. Posts Mr. Bledsoe made to Facebook/Instagram that reference riots

Joint Pretrial Statement, Exhibit C lists two exhibits that consist of individual posts that Mr. Bledsoe allegedly made to Facebook/Instagram in early November 2020 in which he predicts that people will riot because of the supposed fact that the election was stolen from Donald Trump. Exhibits 2 and 3. It is guessed that the government will argue that these posts show that Mr. Bledsoe intended to riot when he allegedly went to the Capitol on January 6, 2021. However, these posts were made two months before January 6, 2021, and there is no evidence that they were made even made with an awareness of the fact that a congressional hearing to certify the Electoral College votes would be held on January 6, 2021. Moreover, the posts only show Mr. Bledsoe making a prediction that other people will riot over the supposed fact that the election was stolen from Donald Trump. In the posts, he does not express any intent on his part to engage in riotous conduct or even express a view about the correctness of riotous conduct.

C. Post Mr. Bledsoe made to Facebook/Instagram about not letting the election get stolen

Joint Pretrial Statement, Exhibit C lists an exhibit that consist of a post Mr. Bledsoe allegedly made to Facebook/Instagram on November 7, 2020 in which, in commenting on a post someone else had made about the presidential election having been stolen from Donald Trump, Mr. Bledsoe posted, “[W]e won’t let anyone steal it away.” Exhibit 4. It is guessed that the government will argue that this post shows that, when Mr. Bledsoe allegedly went to the Capitol

on January 6, he was intending to prevent Congress from certifying the Electoral College votes and making Joseph Biden president. However, the post was made two months before January 6, 2021, and there is no evidence that it was even made with an awareness of the fact that a congressional hearing to certify the Electoral College votes would be held on January 6, 2021. Moreover, in the post Mr. Bledsoe makes no mention of taking any specific action.

D. Response Mr. Bledsoe made to Facebook/Instagram post that someone else had made stating, “Fuck it I’m killing ‘em”

Joint Pretrial Statement, Exhibit C lists an exhibit containing a response that Mr. Bledsoe allegedly gave on November 17, 2021 to someone’s else Facebook/Instagram post in which that other person, in seeming reference to the supposed fact that the presidential election had been stolen, stated, “Fuck it I’m killing ‘em.” The exhibit indicates that Mr. Bledsoe posted in response, “Yes sir.” Exhibit 9. It is guessed that the government will argue that this post by Mr. Bledsoe shows that he intended to support violent activity when he allegedly went to the Capitol on January 6, 2021. However, this post was made seven weeks before January 6, 2021, and there is no evidence that it was even made with an awareness of the fact and that a congressional hearing to certify the Electoral College votes would be held on January 6, 2021. Moreover, there is no evidence that, when the other person posted, “I’m killing ‘em,” he was being serious and not engaging in hyperbolic speech. Additionally, there is nothing to indicate who the person was indicating he was going to kill. Also, while a response of “Yes sir” from Mr. Bledsoe might express approval for whatever sentiment “I’m killing ‘em” might express, it does not reflect an intent on Mr. Bledsoe’s part to engage in any conduct whatsoever.

E. Response Mr. Bledsoe made to Facebook/Instagram post that someone else had made stating, “Think Strategic. Art of War. No chance this is over”

Joint Pretrial Statement, Exhibit C lists an exhibit containing a response that Mr. Bledsoe allegedly gave on November 8, 2020 to someone else’s Facebook/Instagram post in which that other person stated, “Think Strategic. Art of War. No chance this is over.” The exhibit indicates that Mr. Bledsoe posted in response, “Far from it.” Exhibit 14. It is guessed that the government will argue that the responsive post by Mr. Bledsoe shows that he intended to support violent activity when he allegedly went to the Capitol on January 6, 2021. However, the post was made two months before January 6, 2021, and there is no reason to think that it was even made with an awareness of the fact that a congressional hearing to certify the Electoral College votes would be held on January 6, 2021. Additionally, the statement, “Think Strategic. Art of War. No chance this is over” is cryptic and open widely to interpretation. Also, while Mr. Bledsoe’s response of “Far from it” might be viewed as expressing his approval for the other person’s saying, “No chance this is over,” it does not reflect his approval for anything else the other person said. Moreover Mr. Bledsoe’s response does not indicate any intent of his part to engage in any conduct whatsoever.

F. Memes and content created by others that Mr. Bledsoe posted to Facebook/Instagram

Joint Pretrial Statement, Exhibit C lists several exhibits that consist of memes and content created by others that Mr. Bledsoe allegedly posted to Facebook/Instagram late in the day on January 6, 2021 and on January 7, 2021. The memes and content portray what happened at the Capitol on January 6 in a favorable light and claim that there is a need for an election recount. Exhibits 23, 24, 25, 26, 27, and 28. It is guessed that the government will argue that the fact that Mr. Bledsoe posted these memes and content created by others to Facebook/Instagram shows that he felt that what had happened at the Capitol earlier was justified and therefore that, when he

allegedly went to the Capitol on January 6, he must have been intending to cause what ended up happening there. However, if the government is saying that the posts at issue go to show Mr. Bledsoe's intent when he allegedly engaged in the conduct he is charged with, it must be recognized that it is highly speculative to even assume that someone's feelings about something after the fact are indicative of what he was feeling at the time of the occurrence—that alone indicative of what he was intending by any actions he took in relation to the occurrence. Beyond this, in seeking to use the exhibits at issue, it appears the government is seeking to prejudice the jury against Mr. Bledsoe by suggesting he lacked remorse for what happened at the Capitol on January 6, 2021.

G. Posts Mr. Bledsoe made to Facebook/Instagram on January 7, 2021 about future military action

Joint Pretrial Statement, Exhibit C lists three exhibits that consist of posts that Mr. Bledsoe made to Facebook/Instagram on January 7, 2022 about military action being taken in the future. Exhibits 13, 22, 83.¹ It is not clear why the government thinks these posts are relevant in connection with the charges against Mr. Bledsoe. The posts were made after January 6, 2021 and their contexts are not clear.

H. Text message by Mr. Bledsoe and text-message exchange involving Mr. Bledsoe related to the Proud Boys

Joint Pretrial Statement, Exhibit C lists an exhibit that consists of a text message that Mr. Bledsoe allegedly sent to someone on January 3, 2021 in which he allegedly stated, "I am a proud boy, trying to join officially right now." Exhibit 31. Joint Pretrial Statement, Exhibit C also lists an exhibit that consists of a text-message exchange that Mr. Bledsoe allegedly had with someone on January 6 in which the other person stated, "Stay proud ya ugly fucker," and Mr. Bledsoe responded, "Always." As part of the exchange, an image of a t-shirt with the words "Proud Boys" on the chest was sent. The image appears to be of a shirt that you can buy online.

¹ It appears that Exhibits 13 and 83 may be duplicate exhibits.

Exhibit 35. It is believed that the government may try to use the above- referenced exhibits to suggest that Mr. Bledsoe is affiliated with the Proud Boys and/or sympathetic with their aims. However, there is no evidence that Mr. Bledsoe actually ever joined the Proud Boys or that he ever engaged in any Proud Boys activities. Importantly, there is no evidence that he interacted with any Proud Boys on January 6, 2021 or that he was even aware that Proud Boys were ever physically present near him at any time during the events of that day. Moreover, even if Mr. Bledsoe was sympathetic to the Proud Boys, this does not mean that he was sympathetic to everything that they do or that his sympathies informed any actions he may have taken on January 6, 2021. Beyond this, it appears that in seeking to use the exhibits at issue, the government is seeking to prejudice the jury against Mr. Bledsoe by suggesting an association between him and the Proud Boys.

I. Text messages and Facebook/Instagram posts that were sent to Mr. Bledsoe on January 6, 2021

Joint Pretrial Statement, Exhibit C lists several exhibits that consist of text messages or Facebook/Instagram posts that were allegedly sent to Mr. Bledsoe on January 6, 2021 about what being reported regarding on-going events at the Capitol. Exhibits 38, 39, 40, 41, 43, 47, 48, 52, 61, 69, and 82. It is believed that the government will argue that these messages and posts informed Mr. Bledsoe's mindset at the time he is alleged to have gone to and been present at the Capitol on January 6. However, as an initial matter, it must be noted that, to even say that the messages and posts informed Mr. Bledsoe's awareness to begin with, it must first be shown that he actually read them. Beyond this, it must be recognized that the messages and posts appear to be from people who were not at the Capitol on January 6 and are about what is being reported by others whose bases of knowledge are not indicated. Thus, the messages and posts cannot be viewed as having any real informative value. Given that Mr. Bledsoe was allegedly at the Capitol and observing events there first hand, this is especially so to the extent that what was being stated in the messages and posts did not comport with what Mr. Bledsoe was seeing.

J. Text-message exchange regarding a bomb scare near the Capitol

Joint Pretrial Statement, Exhibit C lists an exhibit that consists of a text message exchange that Mr. Bledsoe allegedly had with his wife on January 6, 2021 in which his wife stated “there’s a bomb scare near the Capital [sic]” and Mr. Bledsoe responded, “Good.” Exhibit 47. It is guessed that the government may try to use this text-message exchange in an effort to suggest that Mr. Bledsoe had a corrupt intent to obstruct the congressional hearing regarding the certification of the Electoral College votes that was occurring that day. However, the fact that Mr. Bledsoe seemed glad to hear that there was a rumor of bomb scare at the Capitol is hardly evidence of any corrupt intent he had to obstruct the congressional hearing to certify the Electoral College votes.

K. Text message by Mr. Bledsoe in which he states, “They will all be executed”

Joint Pretrial Statement, Exhibit C lists an exhibits that consist of text message that Mr. Bledsoe allegedly sent to someone on January 10, 2021 in which he states, “They are all going to be executed.” Exhibit 85. It is not clear why the government thinks that this post is relevant in connection with the charges against Mr. Bledsoe. The text message was sent four days after January 6, 2021, and its context is not clear. Moreover, it is not even clear who it is that Mr. Bledsoe believes is going to be executed. Also, the message appears to simply be a prediction about something that might happen in the future.

L. Video of Mr. Bledsoe saying, “Free Alex Jones” and text message by Mr. Bledsoe about Alex Jones and

Joint Pretrial Statement, Exhibit C also lists an exhibit that consists of a video recorded by someone else that appears to show Mr. Bledsoe exiting the Capitol building on January 6, 2021 and saying, “Free Alex Jones” as he does. Exhibit 158. Joint Pretrial Statement, Exhibit C also lists an exhibit that consists of a text message that Mr. Bledsoe allegedly sent his wife a little later on January 6, 2021 in which he states, “Came back to capital [sic] to find Alex Jones.”

Exhibit 72. It should be noted that the government has plenty of other evidence that Mr. Bledsoe was at the Capitol building and exiting it at the time he was captured on the video in Exhibit 158 saying, “Free Alex Jones” as he exited the building (videos, text messages, GPS data, Facebook/Instagram posts, etc.). Also, it has plenty of other evidence showing that Mr. Bledsoe had returned to the Capitol on January 6, 2021 at the time he allegedly texted his wife that he came back “to find Alex Jones” (videos, text messages, GPS data, Facebook/Instagram posts, etc.). It is hard to see how the fact that Mr. Bledsoe is a fan of Alex Jones has any relevance in connection with the charges against him. Accordingly, the government seems to be seeking to use Exhibits 72 and 158 to show that Mr. Bledsoe is a fan of the controversial alt-right figure Alex Jones in an effort to prejudice the jury against Mr. Bledsoe.²

CONCLUSION

WHEREFORE, the defendant, Matthew Bledsoe, notifies the Court and the government of his intent to object to the admission of many of the exhibits that the government has indicated it will seek to introduce into evidence at trial.

Respectfully submitted,

/s/

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² The government has indicated to counsel for Mr. Bledsoe that it will also seek to use at trial against Mr. Bledsoe a video taken by someone just outside the Capitol Building in which Mr. Bledsoe walks up to the person and pulls back his jacket to show the person that he is wearing a sweatshirt underneath that has “Free Alex Jones” written across the chest. However, in Exhibit C of the Joint Pretrial Statement, the government has not listed an exhibit that consists of this video. Nevertheless, it is noted here, that such a video would not have any relevance in connection with the charges against Mr. Bledsoe. It would thus appear that, if the government did seek to use the video at trial against Mr. Bledsoe, it would again be seeking to prejudice the jury against him by portraying him as a fan of Alex Jones.