

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
Plaintiff,

vs.

CASE NO.: 1:21-CR-00028-APM

KELLY MEGGS
Defendant.

FLORIDA BAR NO.: 0983675

**UNOPPOSED MOTION TO ADOPT DEFENDANT CALDWELL'S
MOTION TO DISMISS CASE**

COMES NOW the defendant, KELLY MEGGS, by and through his undersigned counsel, and submits the following MOTION TO ADOPT the Motion to Dismiss Case filed by co-defendant Caldwell at docket entry 240.

The defendant hereby requests for leave to adopt this motion to obtain the result of the Court's ruling thereon without unduly burdening the court and record with unnecessarily duplicative filings and pleadings.

The undersigned has discussed the substance of this motion with Assistant United States Attorney Jeffrey Nestler who indicates no objection to the Court's granting leave for the adoption of Caldwell's motion by Meggs.

MEMORANDUM OF LAW

This Circuit permits the adoption by reference of arguments submitted by co-

defendants, “but only to the extent [the Court] can readily apply the proponent’s arguments to the adopter’s case.” *United States v. Straker*, 800 F.3d 570, 594 n.5 (D.C. Cir. 2015).

In the case at bar, with respect to counts one and two of the indictment, Mr. Meggs occupies a factual position identical to that of Caldwell and any legal argument that would be put forward independently by Mr. Meggs would be the same. The Court’s ruling on Caldwell’s motion as to these counts will hinge on the legal determination whether the allegations in the indictment state a cause of action, the result of which would be directly applicable to Meggs.

With respect to Caldwell’s motion to dismiss count four of the indictment, unlike Caldwell, Meggs concedes the indictment does allege that he entered the Capitol building, however, to the extent that the Court’s ruling would require a legal determination whether the Capitol grounds and building constituted a “restricted area” at the time of all the defendants’ presence there, the arguments put forward by Caldwell would apply equally to Meggs.

Caldwell’s motion likewise addresses count nine of the indictment, which count does not include Mr. Meggs. However, Meggs is charged with the same offense in count eleven, the factual recitations regarding which are virtually identical. The arguments tendered by Caldwell would likewise be applicable to Mr.

Meggs.

WHEREFORE, the defendant, KELLY MEGGS, respectfully requests this Honorable Court grant this motion and enter its Order rendering co-defendant Caldwell's Motion to Dismiss Case applicable as though filed by undersigned counsel on his behalf.

RESPECTFULLY SUBMITTED,

/s/ David Anthony Wilson
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29th, 2021, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Office of the United States Attorney.

/s/ David Anthony Wilson
DAVID ANTHONY WILSON

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_____ /

PROPOSED ORDER

Upon consideration by the Court of Kelly Meggs' Unopposed Motion to Adopt Co-Defendant Caldwell's Motion to Dismiss Case, Defendant Meggs' Motion is hereby Granted.

Dated this _____ day of _____, 2021.

HON. AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE