

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

**UNITED STATES OF AMERICA**

**v.**

**BRUNO JOSEPH CUA**

**Criminal Action No. 21-00107 (RDM)**

**Honorable Randolph D. Moss**

**DEFENDANT BRUNO CUA’S NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant Bruno Cua, through his counsel, files this notice of supplemental authority regarding the meaning of the term “assault” under 18 U.S.C. § 111. Mr. Cua submits this notice in advance of the hearing on February 24, 2023, to assist the Court with its determination.

Mr. Cua has previously discussed the definition of “bodily injury” included in several sections of Title 18, including subsection 1365(h)(4). *See* ECF No. 278 at 5-7 (quoting 18 U.S.C. § 831(g)(5), 1365(h)(4), 1515(a)(5) & 1864(d)(2) and discussing cases and jury instructions using the same); ECF No. 286 at 5 (discussing same). Related to this point, it has come to the defense’s attention that in other cases related to the events at the Capitol on January 6, 2021, at least two judges on this Court have used the related definition of “serious bodily injury” from section 1365, which itself uses the term “bodily injury,” as defined in the same subsection.<sup>1</sup>

In *United States v. McCaughey, et al.*, Crim. No. 21-00040, Judge McFadden used section 1365 to define “serious bodily injury” within the definition of “deadly or dangerous weapon” for purposes of stating the elements of section 111(b): “As defined in 18 USC 1365(h)(3), ‘serious bodily injury’ means bodily injury involving a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of

---

<sup>1</sup> The defense has been unable to find an instance where a judge on this Court has defined “bodily injury” separately using the Title 18 definition.

the function of a bodily member, organ or mental faculty.” *See* Ex. 1 at 21. Judge Mehta used the same definition in *United States v. Schwartz, et al.*, No. 21-cr-178 (APM). *See* Ex. 2 at 15.<sup>2</sup>

Respectfully submitted,

DATED: February 23, 2023

/s/ William E. Zapf  
Jonathan Jeffress (D.C. Bar No. 479074)  
William E. Zapf (D.C. Bar No. 987213)  
KaiserDillon PLLC  
1099 14th Street NW  
8th Floor West  
Washington, DC 20005  
T: (202) 640-2850  
F: (202) 280-1034  
jjeffress@kaiserdillon.com  
wzapf@kaiserdillon.com

*Attorneys for Bruno Joseph Cua*

---

<sup>2</sup> These instructions were provided by defense counsel in the *Schwartz* case and do not appear to be available on the public docket but are listed at ECF No. 172, but there is no link to the document.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of February, 2023, I filed the foregoing with the Clerk of the United States District Court for the District of Columbia by using the CM/ECF system and served a copy of it by electronic mail on counsel for the United States, Assistant United States Attorneys Kaitlin Klamann, Carolina Nevin, and Kimberly Paschall.

/s/ William E. Zapf  
William E. Zapf