

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

CASE NO. 1:21-CR-00421-JDB

JOHN MARON NASSIF,

DEFENDANT.

MOTION IN LIMINE TO PRECLUDE REFERENCES TO
OFFENSES AS MISDEMEANORS

The Defendant, John Maron Nassif, 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 “misdemeanors” in the jury’s presence. In support thereof, the undersigned would state the following:

1. That on June 22, 2021, The United States Attorney, for the District of Columbia, filed an Information charging the Defendant with four misdemeanor offenses (Count One, 18 U.S.C. § 1752(a)(1); Count Two, 18 U.S.C. § 1752(a)(2); Count Three, 40 U.S.C. § 5104(e)(2)(D); and Count Four, 40 U.S.C. § 5104(e)(2)(G).)

2. The Defendant asserts that the jury’s factfinding should not be clouded by a belief that its verdict will not carry serious consequences. Mr. Nassif 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.

MEMORANDUM OF LAW

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)).

Respectfully submitted,

A. Fitzgerald Hall
Federal Defender, MDFL

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CERTIFICATE OF SERVICE

I hereby certify that on October 24, 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.

/s/ James T. Skuthan
James T. Skuthan, Esq.
Attorney for Defendant