

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

UNITED STATES OF AMERICA,

v.

Case No. 1:21-cr-175-2-TJK

JOSEPH R. BIGGS, et al.,

Defendants.

MOTION TO EXCLUDE TESTIMONY OF OREN SEGAL

This will not stand. This aggression will not stand.

~ J. Lebowsky, *The Big Lebowski*, Gramercy Pictures, 1998 (from
Pres. Bush, Aug. 5, 1990, comments on Iraqi invasion of Kuwait)

Defendant Joseph Biggs moves the Court to exclude in its entirety the testimony of Oren Segal, a long-time employee, and activist with the respected Anti-Defamation League. Mr. Segal is expected to testify that the Proud Boys organization is a “white nationalist” or domestic terrorist organization. Such testimony proffered by the government is *not* expert testimony under Rule 702, F.R.E. Even if offered as rebuttal evidence, it is not technical, scientific, or even specialized “knowledge” under Rule 702. It is simply political or cultural belief. Importantly, the testimony also does not pass muster under any prong of the test of *Daubert v. Merrell Dow Pharmaceuticals Inc.*, 509 U.S. 579 (1993). Under *Daubert*, factors that may be considered in determining whether a methodology is valid are: (1) whether the theory or technique in question can be and has been tested; (2) whether it has been subjected to peer review and publication; (3) its known or potential error rate; (4) the existence and maintenance of controlling standards; and (5) whether it has attracted widespread acceptance within a relevant scientific community. *Id.* at 593-94. Under Rule 403, F.R.E., moreover, the probative value of the testimony -- even assuming that it is relevant under Rule 401 -- is dwarfed by the danger of unfair prejudice. It would inflame,

confuse and mislead any jury, especially one consisting of the good, well-meaning, change-the-world-now, younger demographic residents of Washington, D.C. who in recent years have flooded the city. The proffered testimony here is junk science and *faux* academia at its worst.

The Court is referred to Mr. Segal's qualifications, presented in testimony (provided by the Department of Justice in this case) of a 2018 prosecution brought in a local Manhattan state trial court, *State of New York v. Kinsman and Hare*, No. 4041/2018. In that case, two Proud Boys stood trial in effect for successfully defending themselves (i.e., winning a fight unprovoked by them) against members of Antifa, which had become increasingly violent in America. Each was sentenced to four years in prison. Mr. Segal identified himself in that case as the "Director" of the hopelessly sanctimonious sounding "Center on Extremism," which is a unit of the ADL. In the instant case, Mr. Segal's job is obviously to poison both the jury and the record of this case by painting Proud Boys as a narrow and malicious "white nationalist" or domestic terrorist group instead of the fraternal organization focused on traditional ideas that have made it attractive to some here and abroad. Permitting ADL activist Mr. Segal to testify would be no fairer than permitting, say, George Will or (if he were alive) the late William F. Buckley, Jr. to weigh in on groups like "Black Lives Matter," Antifa or the Wobblies after drinks at the Cosmos Club's grill. Mr. Segal's testimony must be excluded.

Respectfully submitted,

Dated: October 17, 2022

By: /s/ J. Daniel Hull
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COUNSEL FOR JOSEPH BIGGS

CERTIFICATE OF SERVICE

The undersigned certifies that on October 17, 2022, he served a true and correct copy of the foregoing Motion to Exclude Testimony of Oren Segal upon all counsel of record via the Electronic Case Filing (ECF) system.

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