

IN THE 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.

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RESPONSE TO GOVERNMENT'S MOTION IN LIMINE  
TO PRECLUDE ARGUMENTS AND EVIDENCE  
ABOUT LAW ENFORCEMENT INACTION

The Defendant, John Maron Nassif, hereby replies to the government's motion in limine to preclude arguments and evidence about alleged law enforcement inaction on January 6, 2021. Doc. 48.

The government concedes that "the conduct of law enforcement officers may be relevant to the defendant's state of mind on January 6, 2021." Doc. 48, pg. 5. Mr. Nassif reserves the right to present arguments and evidence relevant to the mens rea elements of the charged offenses.

Mr. Nassif has been charged by information with four criminal counts. Doc. 12. Count One, by itself, requires proof that Mr. Nassif (1) *knowingly* entered or remained in a restricted building or grounds; (2) *knew* the building or grounds was restricted; (3) lacked lawful authority to enter or remain there; and (4) *knew* he lacked lawful authority. 18 U.S.C. § 1752(a)(1). All evidence that tends to show or negate any element, including the element of knowledge, is relevant. Fed.

R. Evid. 401.

Moreover, evidence that is not relevant to one element may nonetheless be relevant to another. For example, the term “restricted buildings or grounds” is statutorily defined, and the definition belies the notion that an individual police officer could impose or lift a restriction. *See* § 1752(c). So evidence of actions by individual officers might not be relevant to show that an area was or wasn’t “restricted” under the statute, yet could be relevant to whether *Mr. Nassif knew* an area was restricted.

Even actions and events outside Mr. Nassif’s view may be relevant if he saw the actions’ consequences. For instance, the government’s motion rightly notes that “obvious police barricades [and] police lines” on January 6 are probative of the knowledge of persons who saw those visible barriers. Doc. 48 at 3 (quoting *United States v. Chrestman*, 525 F. Supp. 3d 14, 32 (D.D.C. 2021)). But for the same reason, the inverse is true: evidence that a line evaporated or a barricade was removed is relevant to the knowledge of a person who saw an area only after visible demarcations were gone. Mr. Nassif would offer evidence of such acts or omissions where it is probative of his own mental state—for example, his knowledge that an area was restricted or that he lacked lawful authority to enter an area.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 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.