

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

UNITED STATES OF AMERICA,

-v-

**DAVID JOHN LESPERANCE,
CASEY CUSICK, and JAMES
VARNELL CUSICK, JR.,**

Defendants.

Criminal No.: 1:21-cr-575 (JDB)

DEFENDANTS OBJECTIONS PROPOSED FINAL JURY INSTRUCTIONS

David John Lesperance, Casey Cusick, and James Varnell Cusick, Jr.

(“Defendants”), through undersigned counsel, John M. Pierce, presents the following objections to proposed final jury instructions:

- Objection to Instruction 2.107 “BURDEN OF PROOF”

Defendants oppose language which states “If you find that the government has proven . . . it is your duty to find that defendant guilty of that offense.” This instruction violates the right to jury trial as described in Article 3, and the 6th amendment. A proper instruction is that the jury “may find that defendant guilty of that offense.”

- Objection to the “PREPARATION OF WITNESSES” instruction on page 23.
This instruction is unnecessary and might give a false impression that anything goes regarding witness preparation (which is not the case).
- The word “remaining” in Count 1 must be defined.
Defendants propose the following: “The term “remaining” means staying or refusing to leave within a reasonable time after being formally told to leave, or staying after others are gone.¹
- Restricted shouldn't be defined as restricted. It should say “or otherwise marked off” or “designated.”
- Also, defendants request an instruction on the requirement of individualized guilt, rather than collective guilt. “A defendant may only be convicted of a crime that he himself individually committed. A person may never be convicted on the basis of what other people do.”
- Additionally, defendants request a 1st amendment jury instruction as it pertains to disorderly conduct and “picketing and parading.” This should be based on principles outlined in the *Bynum* decision which held that the interior of the Capitol is not a free speech open forum, but that nondisruptive organized

¹ See, e.g., Britannica Dictionary, “to be left when the other parts are gone . . .” or “to stay after others have gone.”

prayer walking and even speechmaking in the halls of the Capitol are protected under the First Amendment.

Date: July 13, 2023

Respectfully Submitted,

/s/ John M. Pierce

John M. Pierce

21550 Oxnard

Street 3rd Floor,

PMB #172

Woodland Hills, CA

91367

Tel: (213) 400-0725

Email: jpierce@johnpiercelaw.com

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on July 13, 2023, this motion was filed via the Court's electronic filing system, which constitutes service upon all counsel of record.

/s/ John M. Pierce

John M. Pierce