UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA **v.** **LAURA STEELE,** **Defendant.**	**Case No. 21-cr-28-APM**

UNITED STATES' OPPOSITION TO
DEFENDANT'S MOTION FOR CONTINUED RELEASE PENDING APPEAL

Defendant Laura Steele's motion for continued release pending appeal falls short of her burden to rebut the presumption of detention under 18 U.S.C § 3143(b) and should be denied.

Laura Steele was found guilty of conspiring to obstruct and obstructing an official proceeding (Counts One and Two), conspiring to prevent Members of Congress from discharging their duties (Count Three), destroying government property (Count Four), entering and remaining in a restricted building or grounds (Count Five), obstructing officers during a civil disorder (Count Seven), and tampering with evidence (Count Eight). ECF 910. On September 15, 2023, the Court sentenced Laura Steele to, in part, 12 months and a day of imprisonment on Counts One, Two, Three, Four, Seven, and Eight, and 6 months' imprisonment on Count Five, all to run concurrently. ECF 1064 at 3. As of October 31, 2023, the Bureau of Prisons has instructed the defendant to self-surrender on November 14, 2023.

The presumption at this stage is for the defendant to be detained. 18 U.S.C. § 3143(b)(1) ("[T]he judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal . . . be detained."). The defendant can rebut that presumption only if she can show two things: (1) that, by clear and convincing evidence, he is "not likely to flee or pose a danger to the safety of any other person or the

community if released"; *and* (2) "that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process." *Id.* The D.C. Circuit has expressly concluded that a "substantial question" is more than just a "fairly debatable" one, a "fairly doubtful" one, or "one of more substance than would be necessary to a finding that it was not frivolous." *United States v. Perholtz*, 836 F.2d 554, 555 (D.C. Cir. 1987). Rather, a "more demanding standard" controls: "a substantial question is a close question or one that very well could be decided the other way." *Id.* at 555-56. This standard is more in accordance "with the expressed congressional intent to increase the required showing on the part of the defendant. The law has shifted from a presumption of release to a presumption of valid conviction." *Id.*

Laura Steele cannot make either showing under Section 3143(b)(1). While the Court found after the defendant's verdict and sentencing that she did not present a risk of flight or danger, the government submits that the nature of her conviction of conspiring to oppose the transfer of presidential power by, among other things, obstructing the official proceeding, and the nature of her conduct damaging government property, engaging in civil disorder on January 6, and deleting evidence afterward, all demonstrate that she is a danger to the community and flight risk. *See* 18 U.S.C. § 3143(b)(1)(A).

Further, Laura Steele does not show that her appeal involves a "substantial question of law or fact likely to result in" reversal, a new trial, a reduced sentence, or a sentence of no imprisonment. 18 U.S.C. §3143(b)(1)(B); *see also United States v. Rivera*, No. 22-3088, 2023

WL 1484683, at *1 (denying a defendant's motion for stay of sentence pending appeal because he could not meet the requirements under 18 U.S.C. § 3143(b)(1)(B)). Her motion is limited to one paragraph, in which she states that she intends to present "novel" issues on appeal that deal with "statutory construction and interpretation, including definitions of both individual words in the statute as well as 'terms of art' as they were used by the drafters of these statutes." ECF 1078 at 3. As the Court has previously ruled, "novel" and "unique" issues are not necessarily "close question[s] or one[s] that very well could be decided the other way." *United States v. Minuta*, Case No. 22-cr-15, ECF 675 at 4 (quoting *Perholtz*, 836 F.2d at 555); *United States v. Connie Meggs*, Case No. 21-cr-28, ECF 1088 at 4 (same). Without more, the defendant has not presented a "substantial question" let alone one that would likely result in any of the enumerated relief under 18 U.S.C. § 3143(b)(1). She has fallen far short of rebutting the presumption of detention.

The government respectfully opposes Laura Steele's motion for release from custody pending appeal.

Respectfully submitted,

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