

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

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 1:21-cr-28-7 (APM)
)	
LAURA STEELE)	
_____)	

**DEFENCE REPLY TO GOVERNMENT’S OPPOSITION TO DEFENCE MOTION FOR
CONTINUED RELEASE FROM CUSTODY PENDING APPEAL**

Laura Steele, through undersigned counsel, replies to the government’s response to her Motion to allow her to remain on current conditions of release pending her appeal. In support of this Reply, Ms Steele states:

In its response, the government correctly notes that 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. Ms Steele agrees, but notes that her matter contains an issue for the Circuit that is indeed of more than significant import and could very well be decided the other way.

In her motion for continued release (ECF 1078), Ms Steele discusses novel and unique issues to be addressed by the DC Circuit, and asks the court to allow her continued release pending appeal. The government characterizes her request as frivolous, however, Ms Steele is raising something of great seriousness: A matter of a jury shifting the burden of proof, and consequently violating 5th and 6th Amendment trial rights. This issue has been brought before and ruled upon by

this Court and Ms Steele certainly does not seek to re-litigate it here. Nonetheless, this is a matter of fundamental constitutional solemnity and if allowed to go unaddressed by the courts would constitute a monumental shift in 230-years of criminal jurisprudence regarding the unwavering, non-shifting, and absolute burden of proof upon the government in any criminal trial. Naturally, it will be the mandate of Ms Steele's appellate attorney to pursue these claims before the Circuit, and while her claims maybe "novel and unique" in that it is difficult to find a situation in which, in a criminal trial, the jury has indicated so blatantly that the of a hearing a defense case is essential for deliberation, there can be no question here that Ms Steele's claim is as far from frivolous as can be, and is of prodigious significance.

Thus, returning to 18 U.S.C. §3143(b)(1)(A), the court has already ruled that Ms Steele does not, by clear and convincing evidence portray a person likely to flee or pose a danger to the community. With respect to section (b)(1)(B), Ms Steele raises an issue of law that is not only substantial, but contemplates a very cornerstone of the common-law right, preceding even the U.S. Constitution itself, providing that a defendant is free from any burden or obligation to provide a defence case. It is axiomatic then that a finding for Ms Steele on this issue would indeed mandate a reversal and remand.

WHEREFORE, for the foregoing reasons, and for any other reasons that may appear just and proper, undersigned counsel respectfully requests this Honorable Court enter an Order maintaining Laura Steele's conditions of release pending her appeal.

Respectfully Submitted,

/s/ *Peter A. Cooper*

Peter A. Cooper, (#478-082)
400 Fifth Street, NW.
Washington DC 20001
pcooper@petercooperlaw.com
Counsel for Laura Steele

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion is being filed via the Electronic Court Filing System (ECF), causing a copy to be served upon government counsel of record, this 7th day of November, 2023.

/s/ Peter A. Cooper

Peter A. Cooper