

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

UNITED STATES,

v.

PATRICK MCCAUGHEY, et. al,
Defendant.

Crim. No. 21cr40

DEFENDANTS' OPPOSITION TO GOVERNMENT'S
MOTION IN LIMINE TO LIMIT
CROSS-EXAMINATION OF SECRET SERVICE AGENCY WITNESSES

The Government has moved to limit the cross examination of witnesses regarding Secret Service protection at the Capitol on January 6, 2021, pursuant to Fed. R. Evid. 401, 403, and 611(b). A limiting order is unnecessary and could prevent questioning with probative value. Therefore, this Court should deny the Government's motion.

To protect sensitive security information, the Government has moved to limit cross examination of witnesses to subjects covered on direct examination. The Government requests that the Court preclude cross examination pertinent to:

1. Secret Service protocols related to the locations where protectees or their motorcades are taken at the Capitol or other government buildings where emergencies occur and
2. Details about the nature of Secret Service protective details, such as the number and type of agents the Secret Service assigns to protectees.

Defendants does not foresee that the protocols in either of these two paragraphs would be pertinent to their defense. Nonetheless, they do seek the latitude to cross examine as to the protocols in place to address specific exigencies (e.g., shots fired, call for deployment of SWAT)

without revealing granular tactical particulars potentially prejudicial to operational security (e.g., the locations wherein shelter is to be sought).

In exploring this narrow subset of Secret Service protocols, the Rules of Evidence govern the questioning of trial witnesses and afford more than ample opportunity to object and preclude the presentment of irrelevant or otherwise impermissible witness response.

CONCLUSION

No order or *ex parte* review is necessary or appropriate.

Respectfully submitted,

ROBERT MORSS
GEOFFREY SILLS

By Counsel

_____/s/_____
John C. Kiyonaga

600 Cameron Street
Alexandria, Virginia 22314
Telephone: (703) 739-0009
Facsimile: (703) 340-1642
E-mail: john@johnckiyonaga.com

Counsel for Robert Morss and Geoffrey Sills

Certificate of Electronic Service

I hereby certify that on June 21, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, with consequent service on all parties of record.

/s/
John C. Kiyonaga