

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

**UNITED STATES OF AMERICA**

**v.**

**MARK SAHADY**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:  
:

**Case No. 21-cr-134 (CJN)**

**UNITED STATES’ RESPONSE TO  
DEFENDANT’S SUPPLEMENTAL MEMORANDUM**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the Defendant’s Supplemental Memorandum in Support of His Motion to Compel Discovery in Support of His Selective Prosecution Claim (the “defendant’s supplemental memorandum” or “Def.’s Suppl.”), ECF No. 91. Defendant Sahady’s supplemental memorandum fails to lend additional merit to his claim and does not justify the extraordinary remedy of compelled discovery.

Pivoting now to an incident that occurred less than a week ago, Sahady argues that he is similarly situated to an individual arrested at the Cannon House Office Building on October 18, 2023. But Sahady fails to present any information from which the Court may conclude he is similarly situated. For one, Sahady refers to a group of people that have yet to be prosecuted or *not* prosecuted. No comparison can be made to a recent incident that has only reached the arresting stage.

But even if prosecutions against these individuals were declined, he still fails to show that he is similarly situated sufficient to justify the compulsion of discovery in support of a selective prosecution claim. By Sahady’s own description, this incident did not involve a massive riot—

*thousands* strong—that threatened the fabric of our democracy and disrupted a proceeding directly connected to the constitutional transfer of presidential power. Nor did it involve a violent mob’s assault on the U.S. Capitol Building. In other words, Sahady cannot sufficiently equate the October 18, 2023 incident at the Cannon House Office Building with “the unique context of January 6[.]” *United States v. Judd*, 579 F. Supp. 3d 1, 8 (D.D.C. 2021). In any event, Sahady cannot “rely on personal conclusions based on anecdotal evidence[.]” *id.* at 5, as he does in asserting his purported comparator “engaged in conduct that was objectively worse” without any supporting reference or basis, *see* Def.’s Suppl. at 2.

For these reasons, and the reasons provided by the government in prior briefing on this topic, Sahady’s motion to compel selective prosecution discovery must be denied.

Respectfully submitted,

Matthew M. Graves  
United States Attorney  
D.C. Bar No. 481052

By: /s/ Kaitlin Klamann  
KAITLIN KLAMANN  
Assistant United States Attorney  
601 D Street NW  
Washington, DC 20530  
(202) 252-6778  
Kaitlin.klamann@usdoj.gov  
IL Bar No. 6316768

/s/ Nathaniel K. Whitesel  
NATHANIEL K. WHITESEL  
Assistant United States Attorney  
DC Bar No. 1601102  
601 D Street NW  
Washington, DC 20530  
nathaniel.whitesel@usdoj.gov  
(202) 252-7759