

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

ZACHARY REHL,  
Defendant

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CASE NO: 1:21-cr-0715-3 (APM)

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ZACHARY REHL'S MOTION TO ADOPT AND SUPPLEMENT  
NORDEAN'S OMNIBUS RESPONSE TO THE GOVERNMENT'S MOTIONS

Zachary Rehl, by his undersigned counsel, hereby respectfully moves for leave to adopt Nordean's Omnibus Response to the Government's Motions (1) to Preclude Improper Impeachment, (2) to Limit Cross-examination Related to CHS Matters, and (3) to Admit Telegram Exhibits (ECF 647).

1. In particular, Mr. Rehl intends to file an opposition to the Government's Motion to Admit Telegram Chats (ECF 646). The government motion was filed at 7:47 p.m. on Saturday night, January 28, 2023. Mr. Rehl read the motion for the first time on Sunday evening.

2. A cursory review of *United States v. Anderson*, 417 U.S. 211, 219 (1974) shows that *Anderson* does not support the government's application to the facts and issues present in the instant case.<sup>1</sup>

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<sup>1</sup> *Anderson* involved consideration of out-of-court statements that were not being offered for the truth of the matter asserted. While the government has previously argued that it does not seek to introduce the statements for the truth of the matter asserted therein, the most recent motion belies those arguments. Throughout the motion, the government quotes the various statements as evidence of the matters asserted therein including that the defendants allegedly celebrated and tacitly approved the use of violence. It is the content of the statements that makes the *Telegram* chats relevant to the government's theory of the case. The *Anderson* Court made clear that the statements were "not admitted into evidence in the § 241 trial to prove the truth of anything asserted therein. Quite the contrary, the point of the prosecutor's introducing those statements was simply to prove that the statements were made so as to establish a foundation for later showing, through other admissible evidence, that they were false." *Anderson*, 417 U.S. at 219-20.

3. The government's motion is 11-pages long; the exhibits it seeks to introduce through its motion are contained in a 198-page document.

4. Among the exhibits the government seeks to introduce is a chat group involving "*Skull and Bones (the "Elders" chat)*". Gov Motion (ECF 646) at 9-10. Notably, Mr. Rehl is not a Proud Boys "Elder" and did not participate in that chat group.

5. As counsel is preparing for the witnesses to be presented in Court by the government in the next few days and will be in trial all day, counsel will be unable to devote the time and effort necessary to respond to the government's motion. The work necessary to preserve Mr. Rehl's Sixth Amendment's rights to the assistance of counsel in presenting an adequate defense cannot be completed overnight.

6. In particular, Mr. Rehl requires additional time to review the Government's Motion to Admit Telegram Chats (ECF 647), conduct research, and file an adequate response.

7. Mr. Rehl also seeks to join and adopt the legal arguments made and relief sought in Nordean's Omnibus Response (ECF 434) on the other two issues presented.

8. The issues raised and arguments made by Mr. Nordean apply with equal force to Mr. Rehl.

9. Proceeding in this fashion will promote the just determination of the case, simplify procedures and eliminate unjustifiable expense and delay in accordance with Rule 2, FED. R. CRIM. PROC.

WHEREFORE, for the reasons stated above, Mr. Rehl respectfully moves to adopt and join the Omnibus Response filed by Mr. Nordean (ECF 467). He also seeks additional time to file an adequate response to the Government's Motion to Admit Telegram Chats (ECF 647).

Respectfully submitted,

/s/

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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was served via ECF on all counsel of record this 29<sup>th</sup> day of January, 2023.

*/s/ Carmen D. Hernandez* \_\_\_\_\_

**Carmen D. Hernandez**