

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :  
 :  
 : No. 21-CR-383 (BAH)  
 v. :  
 PATRICK STEDMAN :

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**DEFENDANT STEDMAN’S REPLY TO GOVERNMENT MOTION IN LIMINE  
TO PRECLUDE IMPROPER DEFENSE ARGUMENTS AND EVIDENCE ABOUT  
LAW ENFORCEMENT  
(Docket Entry 44)**

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This memorandum is in response to the government’s motion in limine to preclude “improper defense arguments and evidence about law enforcement”, filed at docket entry 44 (DDE 44). The government’s motion seeks to preclude the defendant Stedman from “(1) arguing any entrapment by estoppel defense related to law enforcement; (2) offering evidence or argument concerning any claim that by allegedly failing to act, law enforcement made the defendant’s entry into the United States Capitol building or grounds or their conduct therein lawful; or (3) arguing or presenting evidence of alleged inaction by law enforcement unless the defendant specifically observed or were otherwise aware of such conduct.”<sup>1</sup>

Mr. Stedman does not intend to argue entrapment by estoppel in the sense presented by the government regarding numbers (1) and (2) above, and therefore the government’s argument

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<sup>1</sup> The government’s reasoning for its motion here also supports Mr. Stedman’s motion filed under docket entry 46 (Motion Point III seeking to preclude the government from presenting evidence regarding any events of January 6, 2021 for which the government cannot demonstrate Mr. Stedman was present and observed, or of which he was otherwise aware).

in that regard is moot. Mr. Stedman does not intend to claim at trial that any law enforcement officer misled him about the **state of the law**, or that actions of law enforcement made his conduct lawful by their actions or proclamations, other than (discussed *infra*) as such could have impacted his state of mind. Mr. Stedman is aware of this Court's opinion in *U.S. v. Chrestman*, 525 F. Supp. 3d 14 (D.D.C. 2021). Mr. Stedman (unlike the defendant in *Chrestman*) will not contend that "President Trump, in defendant's view, 'gave that permission and privilege to the assembled mob on January 6,' ...and defendant therefore cannot be punished for acting in accord with the then-President's words", *Chrestman*, 525 F. Supp. 3d at 29 (D.D.C. 2021), *i.e.* that then President Trump somehow waived applicable law for Mr. Stedman.

However, evidence about another type of "waving" is permissible and appropriate here. As the government essentially and correctly concedes in its motion (DDE 44, GT Brief at 4 ), Mr. Stedman properly may use, introduce, or comment on action and inaction by law enforcement which he observed or was aware – such as law enforcement standing idle and not precluding entry into the Capitol Building, and/or affirmatively waving him and others into the building and/or providing directions as to locations therein. Such evidence is relevant and admissible, and defense arguments based on such are proper to negate the government's contention that Mr. Stedman knowingly and intentionally acted to do something the law forbids. To the extent that the government's motion can be read to seek to preclude such arguments and

evidence<sup>2</sup>, it should be denied. This Court has ruled similarly, concluding that “[a]lthough ... [the defendant] need not testify, he must somehow establish his awareness of the alleged inaction. Fortunately, he can do so any number of ways, such as a good faith proffer outside the presence of the jury ... , or using other evidence to show that defendant was adequately nearby the alleged inaction at the correct time to have perceived and understood such inaction as ‘g[iving] permission to the defendant to enter the Capitol.’”. *U.S. v. Williams*, 21-377 (BAH), DDE 87 (Memorandum and Order).

Respectfully submitted,

Law Offices of Rocco C. Cipparone, Jr.

BY: /s/ Rocco C. Cipparone, Jr.  
Rocco C. Cipparone, Jr., Esquire

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<sup>2</sup> While the government’s brief at page 4 seems to make evident that the government is not taking that position, this statement is made here simply because earlier in its brief the government writes “Even if the defendant could establish that a member of law enforcement told him that it was lawful to enter the Capitol building **or allowed him to do so**, the defendant’s reliance on any such statement would not be reasonable in light of the obvious police barricades, police lines, and police orders restricting entry at the Capitol” (GT Brief at 2-3, DDE 44, bold added) and that “the Court should also bar the defendant from arguing that any failure to act by law enforcement rendered his conduct legal.” (GT Brief at 3, DDE 44). Of course, if what Mr. Stedman observed and/or knew of negated criminal intent, then that would make his conduct legal, and such should be permitted to be presented and argued to the jury regarding the actions which Mr. Stedman observed or of which he was aware. Whether the “reliance” on what he knew or observed about law enforcement officers’ words or actions in that regard is “reasonable” is indeed a jury question.

**CERTIFICATE OF SERVICE**

The undersigned certifies that on April 19, 2023, I caused a copy of the within document to be served on all parties listed on the Electronic Case Filing (ECF) System, by means of filing those documents on the ECF system.

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