

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	No. 21 CR 536
v.)	
)	
KAROL J. CHWIESIUK &)	Hon. Kollar-Kotelly
AGNIESZKA CHWIESIUK)	

**DEFENDANTS' RESPONSE TO GOVERNMENT'S MOTION *IN LIMINE* TO LIMIT
CROSS-EXAMINATION OF U.S. SECRET SERVICE WITNESS**

The defendants, Karol J. Chwiesiuk and Agnieszka Chwiesiuk, through their counsel, respond in opposition to the government's motion *in limine* to limit the cross-examination of U.S. Secret Service Witness. Dkt. 74. Defendants respectfully request that this Court deny the motion. In support, the Chwiesiuks state:

I. The Motion to Limit Cross-Examination Should be Denied

The government seeks to foreclose the defendant from questioning any Secret Service Witness about two broad categories:

1. Secret Service protocols related to the locations where protectees or their motorcades are taken at the Capitol or other government buildings when 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.

Dkt. 74 at 2.

For the following reasons, the motion should be denied.

A. The Motion to Preclude Questions on the Number and Type of Agents the Secret Service Assigns to Protectees Should be Denied as Moot

The defendants do not intend to question the witness about the general nature of protective details, such as the number or type of agents assigned. Thus, the motion should be denied as moot to this second category.

B. The Motion to Preclude Questions Related to Protocols and Locations Should be Denied Because Such Questions are Directly Relevant to Elements of the Charged Offenses

The defendants do not intend to inquire into the general protocols for protecting individuals in emergencies nor the locations that have been designated for use by protectees in such situations. However, the motion is extremely broad, and it is unclear on what topics exactly the defendant would be permitted to inquire were it granted. Specifically, the defendant must be permitted to inquire into the location of the vice president in *this* emergency, including when and to what location he was taken. Presumably, the Secret Service was following protocol on January 6. Thus, a literal reading of the government's motion would bar such questions and the motion should be denied. However, to the extent that the government seeks to bar only questions about general Secret Service protocols on other occasions not related to the case at hand, the motion should be denied as moot.

Defendants must be permitted to cross-examine the Secret Service witness concerning the movements of the vice president on January 6. The Sixth Amendment guarantees “the right of an accused in a criminal prosecution to be confronted with the witnesses against him.” *Davis v. Alaska*, 415 U.S. 308, 315 (1974). The main and essential purpose of confrontation is *to secure for the opponent the opportunity of cross-examination.*” *Id.* at 315-16 (quoting J. Wigmore, *Evidence* § 1395, p. 123 (3d ed. 1940)(emphasis in original)). “Cross-examination is the principal means by which the believability of a witness and the truth of his testimony are tested” *Id.* at 316. Here, the superseding information alleges that defendants “enter[ed] and remain[ed] in a restricted building and grounds . . . within the United States Capitol . . . where the Vice President was and would be temporarily visiting” Dkt. 54 at 1-2. *See* 18 U.S.C. §1752(a)(1); (a)(2); (c)(1)(B). Thus, the location of the Vice President is an essential question in this case. Therefore, the defendants must be permitted to cross-examine the witness on this point to mount a meaningful defense.

For these reasons, the defendants, Karol J. Chwiesiuk and Agnieszka Chwiesiuk respectfully request that this Court deny the government's motion to limit cross-examination.

Respectfully submitted,

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