

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Case No.: 1:21-cr-00552 (CRC)**

UNITED STATES OF AMERICA,
Plaintiff,

v.
KENNETH JOSEPH OWEN THOMAS,
Defendant.

Case No. 1:21-cr-00552 (CRC)

NOTICE OF DEFENSE EXPERT

COMES NOW, Defendant, KENNETH JOSEPH OWEN THOMAS, (hereinafter, “Defendant” or “Thomas”), by and through undersigned counsel, who informs the United States Attorney’s Office and the Court that the defense is intending to designate Steve Hill as the defense team’s expert on the evaluation of in the fields of use-of-force, self-defense, and crowd control. *See attached CV.*

NOTICE OF DEFENSE EXPERT

Defense informs the United States Attorney’s Office and the Court that the defense is intending to designate Steve Hill¹ as the defense team’s expert on the evaluation of in the fields of **use-of-force** and **police civil liability**. (*See* Steve Hill Curriculum Vitae attached hereto).

Mr. Hill has conducted police training instruction to officers and related agencies on a national level and has provided expert testimony in the State of New Mexico, “State of New Mexico” related courts.

Mr. Hill has extensive expertise and experience in the use of force. He has used every level of force, including deadly force. He has extensive expertise and experience in

¹ Hereafter referred to as “Expert Hill” or “Mr. Hill”.

crowd control and was the leader of the tactical SWAT team for the City of Albuquerque for several years. Mr. Hill has trained thousands of police officers, including officers from throughout the world, including Ukraine, China, Mongolia, Vietnam, Sri Lanka, and Jordan.

Further, pursuant to Criminal Procedure Rule 16(b)(1)(C), Thomas informs the United States Attorney's Office and the Court that the defense hereby designates and seeks to elicit testimony from Mr. Hill as the defense team's expert, who stands ready to testify on his evaluation of the fields of law enforcement use-of-force, police civil liability, and the movement and actions of the crowd. (*See* Steve Hill Curriculum Vitae attached hereto).

Lastly, relating to Rule 16(b)(1)(C) Defendant hereby discloses: (1) a complete statement of all opinions that the defendant will elicit from the witness in the defendant's case-in-chief; (2) the basis and reasons for them; (3) the witness's qualifications, including a list of all publications authored in the previous 10 years; and (4) a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at trial or by deposition.

(1) EXPERT OPINIONS THAT THE DEFENDANT INTENDS TO PROVE BY STEVE HILL'S TESTIMONY

Expert Hill is expected to review video capturing Defendant's movements and the crowd on the west side of the Capitol on the afternoon of Jan. 6, 2021, as well as the time period surrounding Mr. Thomas's arrest.

Hill is expected to examine the video footage surrounding these incidents and provide testimony about law enforcement use-of-force tactics, police civil liability, if any, and the movements and actions of the crowd around Defendant during this timeframe.²

² I believe that it is undisputed between the parties that after the "first breach", a large crowd continued to gather on the side of the scaffolding, where the officer's police line gathered at the top of the steps. This is

Defendant expects that Mr. Hill will testify to the training and instruction given to law enforcement personnel on a national and local level, and how such could pertain to the U.S. Capitol Police as an agency of the U.S. Congress on January 6, 2021.

Expert Hill is expected to testify that as this situation developed, law enforcement was required to consider that escalating violence could not be justified as a proper law enforcement technique given that the people at the “front” of the crowd (nearest to the law enforcement officers) could not be motivated to retreat given that it was impossible for them to escape through the crowd growing “behind” them. At that point, any law enforcement officers’ use of “lethal” force towards any member of the crowd became a violation of the training and instruction given to the law enforcement officers, an unjustified and unjustifiable use of force, illegal, and outside the scope of permitted force. Expert Hill is also expected to testify that the law enforcement officers responded with overly aggressive tactics which was dangerous and provocative, in violation of their training and the standards governing police use of force.

(2) THE BASIS AND REASONS FOR HILL PROVIDING SUCH TESTIMONY.

In addition to the above, Expert Hill is expected to testify about video recordings showing officers shooting pepper balls and/or rubber pellets at the demonstrators. Again, this only pertains to the exact area, and time frame where Thomas is alleged to have been present. Expert Hill seeks to testify about dangerous and prohibited practices, if any, of officers firing such shots from elevated positions. In one case, a demonstrator is pushed off a very high level and sustained grievous bodily injury.

Expert Hill is expected to testify that the conduct of officers that day are prohibited and illegal practices in violation of the officers’ training and the standards and not justified

uses of force because rubber bullets, pellets, and other alternatives to bullets are intended to be aimed at the torso and maybe the legs and arms of a targeted person to discourage them from approaching and cause them to leave.

Rubber and pepper bullets being aimed at and hitting the face and heads of persons are almost as dangerous as standard bullets. Police officers are prohibited from firing down on people from above for that reason, Expert Hill is expected to testify.

(3) THE WITNESS'S QUALIFICATIONS, INCLUDING A LIST OF ALL PUBLICATIONS AUTHORED IN THE PREVIOUS 10 YEARS.

Mr. Hill is a retired law enforcement veteran and is a Master level certified instructor through the Department of Energy/National Training Center. Mr. Hill specializes in advanced tactical management, critical incident management, Special Weapons and Training (SPO-III), hazardous material tactical response, mobile field force, firearms instruction, criminal investigations, rappel master, first line supervision, electronic surveillance operations, and police civil liability.

Mr. Hill's areas of expertise are tactical operations, response force training, nuclear/radiological security of fixed and transportation assets. He is an expert in the use of tabletop exercises for response training, data collection and physical security for fixed and mobile security high-risk assets.

Mr. Hill is a retired Systems Engineer with Transportation Systems Analysis at Sandia National Laboratories (SNL). At SNL, he was an engineer with the Security Training and Risk Analysis Team (STRAT) where he built response related training programs and conducted security analysis in the areas of nuclear, radiological, chemical and biological security and response. Mr. Hill also participated in the theory and development of future lethal and less lethal weapon systems as part of lab directed research and development teams, resulting in being named in two patent applications for an

electronic control device (Taser technology) and disintegrating ballistic materials).

Mr. Hill is also retired from the Albuquerque Police Department, where he led and supervised hundreds of high-risk tactical events to include hostage resolutions, high risk search warrants, armed/violent offenders, demonstrator, and riot control. He served as the supervisor of the SWAT Team for over 8 years and was a detective in the Special Investigative Department/Repeat Offender Project. Steve has more than 30 years of experience in training state, local and federal standards-enforcement personnel in lethal and less lethal use-of-force and had worked part time for the DOE National Training Center and the U.S. Department of State.

Mr. Hill will be a rebuttal witness to prosecution witnesses who testify on the use-of-force by the defendant and to the use-of-force by police officers when confronted by citizens in possession of various weapons.

(4) A LIST OF ALL OTHER CASES IN WHICH, DURING THE PREVIOUS 4 YEARS, THE WITNESS HAS TESTIFIED AS AN EXPERT AT TRIAL OR BY DEPOSITION.

Mr. Hill is not one normally retained or specially employed to provide expert testimony in litigation and he is not regularly involved in giving expert testimony. Mr. Hill is specially retained for the purposes of this case.

Mr. Hill has not testified as an expert witness in the last 4 years. But for the past 18 years prior to his retirement from the APD, he was an expert in training police, military and first responders from around the world. Hill also was an expert in the evaluation of police and military force multipliers and response force tools and equipment.

Lastly, Mr. Hill has been retired for only 18 months, and now seeks to start testifying in police training and use-of-force procedure because while employed he was not in a position to do so freely, or frequently.

Dated: April 07 , 2023

Respectfully Submitted,

/s/ John M. Pierce
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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2023, a true and accurate copy of the forgoing was electronically filed and served through the ECF system of the U.S. District Court for the District of Columbia.

