

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
v.)	CRIMINAL CASE NO: 1:21-CR-00564
MATTHEW DASILVA)	TRIAL: JULY 17, 2023
DEFENDANTS.)	

**DEFENDANT’S MOTION IN LIMINE
TO EXCLUDE AUDIO RECORDED STATEMENTS FROM VIDEOS AS SPECULATION AND HEARSAY**

Pursuant to Fed. R. Evid. 802 and 602, Defendant moves *in limine* to exclude audio recordings of statements made by witnesses in videos recorded on January 6, 2021, as hearsay and lacking personal knowledge.

The Government is in possession of video footage, captured by witnesses, illustrating the defendant's actions on January 6, 2021. These videos incorporate witness statements that speculate on the defendant's state of mind — a person unknown to them and with whom they have had no interaction. The defendant makes no statements in these videos. Moreover, the witnesses’ hearsay statements go to an ultimate issue, the *specific intent* of the defendant. Since the witnesses are not experts covered by Rule 704(b), their hearsay statements on an ultimate issue are not otherwise admissible under Rules 701–703. As stated in Weinstein's Federal Evidence § 704.03 (2d ed. 2001) and *United States v. Barile*, 286 F.3d 749, 759–60 (4th Cir. 2002), "As a precondition for admissibility under Rule 704(a), testimony concerning ultimate issues must conform to the Rules of Evidence."

