

Nicole Owens
FEDERAL PUBLIC DEFENDER
FEDERAL DEFENDER SERVICES OF IDAHO
702 West Idaho Street, Suite 1000
Boise, Idaho 83702
Telephone: (208) 331-5500
Facsimile: (208) 331-5525

Attorneys for Defendant
YVONNE ST CYR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	1:22-cr-00185-JDB
)	
Plaintiff,)	Motion In Limine To Preclude
)	Use Of Prejudicial Terminology
vs.)	
)	
YVONNE ST. CYR,)	
)	
Defendant.)	
_____)	

The Defendant, Yvonne St. Cyr, moves in limine for an order that the government may not, and must instruct its witnesses not to, use inflammatory, value-laden, or legally conclusory words to describe either (1) events at or near the Capitol Building on January 6, 2021, or (2) persons who participated in or were present for those events. It is not possible to anticipate or compile here a complete list of such words, but for illustrative purposes, they would include—but by no means be limited to—words such as “riot” and “rioter,” “insurrection”

and “insurrectionist,” “mob,” and “trespass.” Many individual Americans no doubt have formed personal opinions about the aptness of describing January 6 in such terms, but their use in the context of a criminal trial would frustrate the ends of justice.

The exclusion of such words will not prejudice either party’s ability to fully and fairly present its case at trial, whereas allowing the use of such words could unduly inflame juror passions and imperil Ms. St. Cyr’s right to a fair trial. A criminal defendant has the right to have the jury make an “individualized determination[] of guilt based on the evidence presented at trial.” *United States v. McGill*, 815 F.3d 846, 895 (D.C. Cir. 2016); *see also id.* at 898 (verdict should be based on “an individual assessment of the . . . defendant’s personal culpability” (quoting *United States v. Blevins*, 960 F.2d 1252, 1260 (4th Cir. 1992))). Words like “rioter” and “insurrection” emphasize group culpability and distract from the proper question of individual culpability. Words that inflame juror passions will tempt the jury to base a verdict on emotion instead of the evidence.

Words that suggest legal conclusions, such as “trespass,” “disorderly conduct,” and “demonstrating,” are indisputably proper in the context of a closing argument. But allowing such words during the presentation of evidence would “intrude upon the duties of, and effectively substitute for the judgment of, the trier of fact and the responsibility of the Court to instruct the trier of

fact on the law.” *United States ex rel. Mossey v. Pal-Tech, Inc.*, 231 F. Supp. 2d 94, 98 (D.D.C. 2002); *see also Cameron v. City of New York*, 598 F.3d 50, 62 (2d Cir. 2010) (“The cases [prohibiting legal conclusions in testimony] have focused on *expert* witnesses. But the impropriety of allowing a lay witness to testify in the form of a legal conclusion is all the clearer.”).

For the foregoing reasons, Ms. St. Cyr asks the Court to order that the government and witnesses not use inflammatory, value-laden, or legally conclusory words to describe events or persons. She also respectfully requests that the Court allow time during the pretrial conference, currently set March 1, 2023, for the parties and the Court to discuss more specifically the terms that will and will not be permitted at trial.

Dated: February 9, 2023

Respectfully submitted,
NICOLE OWENS
FEDERAL PUBLIC DEFENDER
By:

/s/ Nicole Owens
Nicole Owens
Federal Defender
Federal Defender Services of Idaho
Attorneys for Defendant
YVONNE ST CYR

CERTIFICATE OF SERVICE

I CERTIFY that I am an employee of the Federal Defender Services of Idaho, and that a copy of the foregoing document, MOTION IN LIMINE TO PRECLUDE USE OF PREJUDICIAL TERMINOLOGY, was served on all parties named below on this 9th day of February, 2023.

Jacqueline Schesnol, Assistant United States Attorney

Capitol Riot Detailee

Two Renaissance Square

40 N. Central Ave., Suite 1800

Phoenix, AZ 85004-4449

(602) 514-7500

jacqueline.schesnol@usdoj.gov

United States Mail

Hand Delivery

Facsimile Transmission

CM/ECF Filing

Email Transmission

Dated: February 9, 2023

/s/ Joy Fish

Joy Fish