

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 21-cr-626 (PLF)
	:	
DEREK COOPER GUNBY	:	
	:	
Defendant.		

**DEFENDANT GUNBY’S RESPONSE TO GOVERNMENT’S MOTION IN
LIMINE # 60 (TO PRECLUDE LOCATIONS OF CAPITOL CAMERAS)**

COMES NOW Defendant Derek Cooper Gunby (“Gunby”), by and through undersigned counsel John Pierce, with this response and opposition to the United States’ Motion in Limine (#60) to preclude discussion of locations of cameras at the Capitol.

Defendants have a right to present a defense.

Defendants have a right to present evidence and arguments that they did not commit the crimes alleged. Defendants may present evidence that other persons committed the acts the defendants are accused of. Defendants may also present evidence that the alleged crimes were not committed at all, and that the government is framing, staging, or concocting the allegations. *Kyles v. Whitley*, 514 U.S. 419 (1995) (defendants may put on evidence challenging law enforcement investigation, etc.).

DEFENDANT GUNBY'S RESPONSE TO GOVERNMENT'S MOTION IN LIMINE # 60 (TO PRECLUDE LOCATIONS OF CAPITOL CAMERAS) COMES NOW Defendant Derek Cooper Gunby ("Gunby"), by and through undersigned counsel John Pierce, with this response and opposition to the United States' Motion in Limine #60 to preclude discussion of locations of cameras at the Capitol. Defendants have a right to present a defense. Defendants have a right to present evidence and arguments that they did not commit the crimes alleged. Defendants may present evidence that other persons committed the acts the defendants are accused of. In one case, the case of 16 defendant Jesse Rumson, prosecutors claim that events which occurred in the most strategic points of the Capitol went mysteriously unrecorded by any surveillance cameras. Specifically, footage of Rumson's contact with law enforcement near strategic entrances is claimed to be mysteriously missing. Similarly, the government has apparently released no surveillance camera footage of the Ashli Babbitt slaying at one of the most strategically important locations in the Capitol (the entry hallway to the House Chamber). This has fueled online rumors that the event was set up, orchestrated or staged. Additionally, because the government plays a game of hide-and-seek regarding the disposition of surveillance camera footage and discovery, defendants have no way of knowing if the discovery evidence they've been given is complete, or if certain exonerating footage is missing. This is a basic accountability problem with potential Brady v. Maryland implications. In its zeal to convict J6ers, the United States is seeking to transform the Capitol into a top-secret, high security prison-like facility. In 1971, shortly after the Weather Underground bombed parts of the Capitol, the U.S. Senate Committee on Public Works, Subcommittee on Public Buildings and Grounds issued an official report of its emergency hearing, "Security on the Capitol Grounds Relating to the Bombing of the U.S. Capitol," March 2, 1971 p. 1. The Senate report stated that "The Capitol . . . is no ordinary building. It is the seat of the legislative branch of our Government. It is not only a working building, but one of our national shrines and as such must be open to the public. Thus, unique problems are involved when we consider the security of this building. It must also be freely accessible to the public as a symbol of the national liberty we cherish"). The Senate's sergeant at arms, Robert G. Dunphy, stated that "the Capitol building has always operated with its doors open to all citizens and visitors from all over the world." Id. P. 2. Yet the government in its Motion in Limine seeks to depict the Capitol as a top-security, nearly prisonlike, facility where supersecret plans for protecting the Vice President supercede all defendant rights. The government writes that "the very nature of the Secret Service's role in protecting the Vice President and his family implicates sensitive information related to that agency's ability to protect high-ranking members of the Executive branch and, by extension, national security." The defendants have a right to put on a defense. And the government cannot limit their defense by claiming evidence of their defense "implicates sensitive information. . . ." Defendants submit that the government's motion in limine is aimed partially at deceiving the Court and potentially the jury regarding the level of "security" on Capitol grounds, and partially at preventing defendants from showing their innocence. Defendant also challenges the government's assertion of "national security," prejudice, and classified, "top-secret" status at the U.S. Capitol. The Capitol is one of America's most public buildings, where legislators meet with citizenry on a regular basis. At times in U.S. history, the Capitol rotunda, crypt, and statuary hall have been an open-air market where local sellers offered their wares to the public. CONCLUSION For all the foregoing reasons, Defendant asks that the Court to DENY the government's Motion in limine seeking prohibition of questions regarding the placement of security cameras. Dated: September 11, 2023-Respectfully Submitted, /s/ John M. Pierce John M. Pierce 21550 Oxnard Street 3rd Floor, PMB #172 Woodland Hills, CA 91367 Email: jpierce@johnmpercelaw.com Attorney for Defendant CERTIFICATE OF SERVICE I hereby certify that on 9/11/2023 I uploaded this document to the Court's electronic filing system, thereby serving all parties. /s/ John Pierce

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The defendants have a right to put on a defense. And the government cannot limit their defense by claiming evidence of their defense “implicates sensitive information. . .”

Defendants submit that the government's motion in limine is aimed partially at deceiving the Court and potentially the jury regarding the level of "security" on Capitol grounds, and partially at preventing defendants from showing their innocence.

Defendant also challenges the government's assertion of "national security," prejudice, and classified, "top-secret" status at the U.S. Capitol. The Capitol is one of America's most public buildings, where legislators meet with citizenry on a regular basis. At times in U.S. history, the Capitol rotunda, crypt, and statuary hall have been an open-air market where local sellers offered their wares to the public.

CONCLUSION

For all the foregoing reasons, Defendant asks that the Court to DENY the government's Motion in limine seeking prohibition of questions regarding the placement of security cameras.

Dated: September 11, 2023

Respectfully Submitted,

/s/ John M. Pierce

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