

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

UNITED STATES OF AMERICA,

V.

ANTONY VO,

Defendant

No. 21-cr-509 (TSC)

DEFENDANT'S OBJECTIONS TO GOVERNMENT EXHIBITS

Mr. Antony Vo, through counsel, hereby objects to the Government's Exhibit List (July 26, 2023), as discussed below. Mr. Vo's main concern is the use of extended inflammatory, highly prejudicial photos and video footage that do not depict Mr. Vo or areas of the U.S. Capitol grounds where he was present.

Exhibit 217, 218, 219, 220, 221 (Capitol Maps and Photos)

The defense objects to these photos being shown and submitted to the jury. The photos depict barricades and signage outside of the Capitol on January 6, 2021. However, these photos do not represent an accurate depiction of what the exterior of the Capitol actually looked like when Mr. Vo approached the Capitol on that date. Mr. Vo is also not present in any of these photos. Submitting these photos to the jury would be prejudicial and create confusion.

Exhibit 302, 303, 304, 305, 307, 308 (CCTV footage)

The defense objects to these videos being played in their entirety and submitted to the jury. The videos each depict long periods of activity in the Capitol building, up to 40 minutes in length, with Mr. Vo only evident for a few seconds in each video. Mr. Vo does not appear in Exhibits 307 or 308.

Exhibit 458 (Defendant's Cellphone Material)

The defense objects to Exhibit 458 as it is duplicative of Exhibit 457.

The defense also objects to Exhibits 454 - 461 to the extent that these proposed exhibits include messages sent by other individuals. The defense does not object to the messages sent by Mr. Vo, but objects to messages sent by others being shown and submitted to the jury. These messages are not relevant to the government's case against Mr. Vo, and reflect out of court statements that should be excluded as hearsay.

Exhibit 507, 508, 509, 510, 511, 512 (Defendant's Social Media)

The defense objects to these exhibits being shown and submitted to the jury because they are not relevant. The message threads depicted in these proposed exhibits do not relate to the events of January 6, 2021. The message threads are dated in November 2020.

The defense also objects to Exhibits 501 - 512 to the extent that these proposed exhibits include messages sent by other individuals. The defense does not object to the messages sent by Mr. Vo, but objects to messages sent by others being shown and submitted to the jury. These messages are not relevant to the government's case against Mr. Vo, and reflect out of court statements that should be excluded as hearsay.

Exhibits 601 – 625 (Third Party Video)

The defense objects to these open source and third party video exhibits being shown and submitted to the jury for the same reasons contained in defendant's response to the government's motion in limine at ECF No. 69. These videos largely depict other individuals, and not Mr. Vo, on January 6, 2021. Several videos contain voice-over, captions, or other modifications, editing or distortions. These videos are prejudicial to Mr. Vo, including because many videos depict violence and protestor confrontations with police officers that have nothing to do with Mr. Vo –

he is not depicted in them and not alleged to have been present in them.

Exhibits 701 – 709 (Body Worn Camera)

The defense objects to these videos being played in their entirety and submitted to the jury. The videos each depict long periods of activity in the Capitol grounds—Exhibit 702 alone is nearly 3 hours of video; Exhibit 703 is more than 3.5 hours—with Mr. Vo not evident at all or only evident for a few seconds in any given video. The body worn camera footage reflects, in part, interactions between protestors and police officers that Mr. Vo is not depicted in or alleged to be part of, that would be prejudicial to Mr. Vo if submitted to the jury.

Exhibits 901 – 905 (Montages)

The defense objects to these irrelevant videos being shown and submitted to the jury. These videos show breaches that occurred on January 6, 2021, and violence and activities that Mr. Vo was not involved in. They portray other individuals engaging in activities in which Mr. Vo did not participate or personally observe. These videos are not probative of any fact with regards to Mr. Vo specifically. The only proposition the video compilations prove is that thousands of people other than Mr. Vo violently broke into the Capitol Building on January 6 and breached many police lines. However, that fact does not make it more or less probable that Mr. Vo himself did those things because he is clearly not committing those acts in these videos. Therefore, these video montages are not relevant for Mr. Vo's trial and should be excluded. The videos' sole purpose is to inflame the passions of the jury. Their admission would be highly prejudicial given their graphic nature—placing focus on the violence that occurred that day and creating sensory anxiety in jurors. The government should only be permitted to show videos of Mr. Vo and his actions that day. Introductory or summary videos or video montages about the Capitol are not relevant. Any videos showing the conduct of solely other individuals will be

unfairly prejudicial, confuse the issues, and mislead the jury. The defense also objects to the radio run audio that has been superimposed into the “video montage” at Exhibit 901 because there is no explanation of how it was created or to verify its accuracy.

Titles of Open Source Videos

The defense objects to the titles of the open source videos being included on the government’s exhibit list assuming that list will be provided to the jury. The title of the video chosen by an unrelated party is both irrelevant and prejudicial (i.e. “New Footage Shows What It Was Like Inside The Trump Mob At The Capitol On The Ground”).

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

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