

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

UNITED STATES OF AMERICA)
)
) CRIMINAL NO. 21-CR-642(JDB)
)
v.)
)
DARRELL NEELY)

TRIAL BRIEF

NOW COMES the defendant, Darrell Neely, by and through counsel, Kira Anne West and files this short trial brief pursuant to this Court’s oral order at the pretrial conference on May 17, 2023.

1. Statement of the case

Mr. Neely is charged with one felony count and five misdemeanor counts stemming from his activity as a journalist on January 6, 2021. *See* ECF No. 61. Mr. Neely has pleaded not guilty to all counts and is set for trial on May 22, 2023. The government must prove their case beyond a reasonable doubt. Mr. Neely maintains his innocence and will most likely put on a short defense. Mr. Neely has been incarcerated since last September. The woman that lured him into the Capitol, Ms. Vargas Geller, was charged with 4 misdemeanors on May 8, 2023, but has not yet been arrested.¹ Mr. Neely contends that it was she who stole or took items from

¹ Undersigned counsel argued at the pretrial conference that the delay in her arrest was unusual compared to other arrests of J6 defendants. There may be a perfectly plausible explanation for this delay, but the delay hampers Mr. Mr.

the Capitol, not he. Mr. Neely also contends that those items were abandoned property when and if he came upon them.

2. Evidentiary objections & stipulations

Undersigned counsel has conferred with the AUSA's and gone over all defense and government exhibits. There are very few objections on either side, and those objections are mostly relevance objections. Counsel for the defense believes those objections can be raised during trial without causing delay.

3. The Law

The defense believes the jury instructions submitted by both parties are sufficient as are the jury instructions this Court approved in a previous J6 case. *See* Final Jury Instructions, *United States v. St. Cyr*, 21-Cr-185 (JDB)(D.D.C. March 10, 2023).

4. Discovery update

Today at 12: 45 p.m., the government provided the identities of four officers in the crypt-2 from MPD and 2 from Capitol Police. Undersigned

Neely's ability to defend himself as she is the vessel that contains critical information about Mr. Neely's behavior and reasons for being inside the Capitol on January 6, 2021. *See* 23-MJ-000099(ZMF), ECF No. 1, criminal complaint. Page 10 of the criminal complaint shows a picture of Mr. Neely and Ms. Geller entering the Capitol together. She has no black backpack at that time. 7 minutes later when she is seen in the Crypt, she is carrying a black backpack. *See id.* at pps. 11-12. Undersigned counsel has learned from her investigator that Ms. Vargas-Geller is corresponding with a reporter. So she's not lost.

