

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

UNITED STATES OF AMERICA,

Case No.: 1:21-cr-00642-JDB

v.

DARRELL NEELY,

Defendant.

MOTION TO DISMISS INFORMATION

COMES NOW, Darrell Neely, through counsel, pursuant to Rule 12(b)(3) of the Federal Rules of Criminal Procedure to respectfully request this Honorable Court to dismiss the instant information for violation the Department of Justice's policy regarding arresting or charging members of the news media.

BACKGROUND

Mr. Neely is charged in connection with the events that took place at the United States Capitol on January 6, 2021. He is charged in a five count Information with violations of Title 18 U.S.C. Section 641 (Theft of Government Property), 18 U.S.C. Section 1752(a)(1)(Entering and Remaining in a Restricted Building) 18 U.S.C. 1752(a)(2) (Disorderly and Disruptive Conduct in a Restricted Building, 40 U.S.C.C. Section 5104(2)(D) (Violent Entry and Disorderly Conduct in a

Capitol Building) and 40 U.S.C. Section 5104€(2)(G) (Parading, Demonstrating, or Picketing in a Capitol Building).

Admittedly the defendant was present at the Capitol on January 6, 2021, however, he was there, as a member of the press, filming the Trump Rally for his Radio Network called the Global Enlightenment Radio Network (GERN) and live broadcasting it in conjunction with other web-based media hosts.

This is a fact Mr. Neely revealed to the government as early as January of 2021 when he was interviewed by the Federal Bureau of Investigation Agents at his home without first being advised of his rights. Mr. Neely has operated GERN since January 2018 and Neely Worldwide Publishing, a full-service independent publishing house since 2014. Mr. Neely's radio network partners with other website based online broadcasters to bring podcast and social media content through platforms like You Tube, Rumble, I-Heart, and Sirius XM.

On January 6, 2021, Mr. Neely's channel was broadcasting from GERN with several co-hosts as they covered the Rally. Neely was involved in the broadcast as an on-scene reporter. Neely attempted to present audio and video coverage that day but the video coverage was very poor. The co-hosts on the broadcast used the zoom platform to participate in the radio broadcast that day as they were all located in different areas throughout the United States. Neely attempted to give his co-hosts and viewers live impressions of the events unfolding at the Capitol that day as a member of the media/press.

The arrest of Mr. Neely and the search of his home were in direct violation of the Department of Justice's policy regarding arresting and charging members of the news media.

ARGUMENT

28 C.F.R. 50.10(f)(2) provides:

(2) No member of the Department [of Justice] shall seek a warrant for an arrest, or conduct an arrest, of a member of the news media for any offense that he or she is suspected of having committed in the course of, or arising out of, news gathering activities without first providing notice to the Director of the Office of Public Affairs and obtaining the express authorization of the Attorney General.

Although not a member of the traditional broadcast or print media, Mr. Neely, nevertheless is a member of the media. His radio network has been in existence since 2018 and Mr. Neely broadcasts on this network as well as appears on other podcasts as a member of the media. Before arresting Mr. Neely or searching his residence the government was required to obtain the express authorization of the Attorney General.

WHEREFORE counsel respectfully requests that this motion be granted.

Respectfully Submitted,

