

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 22-cr-186 (TJK)
	:	
RALPH JOSEPH CELENTANO III,	:	
	:	
Defendant.	:	

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION IN LIMINE TO
PRECLUDE THE USE OF CERTAIN LANGUAGE**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the Defendant’s Motion in Limine to preclude characterizations of the events at the Capitol on January 6, 2021, including but not limited to words such as “insurrection,” “riot,” “insurrection,” “disorderly conduct,” “trespass,” and “mob.” (ECF No. 35 at 1.) In essence, Defendant Celentano asks that the Court prevent the government and witnesses from using language that accurately establishes and describes the defendant’s crimes and conduct of himself and others; therefore, this Court, as others¹ have done, should deny such a motion.

BACKGROUND

On January 6, 2021, a Joint Session of the United States House of Representatives and the United States Senate convened to certify the vote of the Electoral College of the 2020 U.S. Presidential Election. While the certification process was proceeding, a large crowd gathered outside the United States Capitol, entered the restricted grounds, and forced entry into the Capitol building. As a result, the Joint Session and the entire official proceeding of the Congress was

¹ *United States v. Gillespie*, 22-cr-60(BAH) (Nov. 20, 2022); *United States v. Rahm, Jr.*, 21-cr-150(TFH) (Aug. 15, 2022); *United States v. Alford*, 21-cr-263(TSC) (Sept. 9, 2022).

halted until law enforcement was able to clear the Capitol of thousands of unlawful occupants and ensure the safety of elected officials.

In the early morning hours of January 6, 2021, Defendant Celentano traveled from New York to D.C. He attended the “Stop the Steal” rally on the Ellipse then went onto the restricted grounds of the Capitol. While on the west terrace of the Capitol, he shouted at police officers, including yelling, “How dare you, you pathetic pieces of shit!” and got into physical scuffles with uniformed officers. Also, while on the west terrace, Defendant Celentano rammed into a U.S. Capitol police officer from behind, pushing that officer over a ledge into other officers below.

In a video taken on the grounds of the Capitol, on January 6, 2021, Defendant Celentano said to the camera, “somebody’s gotta do something.” An unidentified person asked, “what do you think we should do?” At the same time as another unidentified individual said, “they’re evacuating the building.” Defendant Celentano answered, “occupy the Capitol, our building.”

Defendant Celentano posted on the social media platform Parler after the 2020 election, as well as before and on or about January 6, 2021. In one post, Defendant Celentano wrote, “the crooked poll workers caught on video need to be identified and hauled before a federal judge and explain their actions #stop the steal.” Another post stated, “We must take back what is our, if our elected officials wont [*sic*] we will do it ourselves Make AMERICA our Again” On or about January 6, 2021, Defendant Celentano posted, “Americans have spoke [*sic*], we want our country back at all costs wake up congress and senate your fairy tales political policys [*sic*] are over we want what is ours so you pepper sprayed, tear gassed us and we the people took back OUR HOUSE not yours remember that crooked Congress and sedated Senate.” Another post read, “After today in DC congress shit their pants its [*sic*] our country we need to take it back now is the time in history.”

Based on his actions on January 6, 2021, Defendant Celentano was charged with: Count One, Assaulting, Resisting, or Impeding Certain Officers, in violation of 18 U.S.C. § 111(a)(1); Count Two, Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); Count Three, Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1); Count Four, Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2); Count Five, Engaging in Physical Violence in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(4); Count Six, Act of Physical Violence in the Capitol Grounds or Building, in violation of 40 U.S.C. § 5104(e)(2)(F); and Count Seven, Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. § 1512(c)(2) and 2. (ECF 14.)

ARGUMENT

Evidence is relevant if “it has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action.” Fed. R. Evid. 401. “The general rule is that relevant evidence is admissible,” *United States v. Foster*, 986 F.2d 541, 545 (D.C. Cir. 1993), and Rule 401 contains a “liberal” standard, *United States v. Moore*, No. 18-cr-198, 2022 WL 715238, at *2 (D.D.C. Mar. 10, 2022). Additionally, Rule 403 does not require the government “to sanitize its case, to deflate its witnesses’ testimony or to tell its story in a monotone.” *United States v. Gartmon*, 146 F.3d 1015, 1021 (D.C. Cir. 1998). Neither Rule 401 nor 403 supports the defendant’s requested relief.

The Descriptors Accurately Describe the Events of January 6, and the Federal Rules of Evidence Do Not Preclude Them.

Defendant Celentano argues that the Court should bar terms like such as “insurrection,” “riot,” “insurrection,” “disorderly conduct,” “trespass,” and “mob.” He further argues that such terms are “highly prejudicial and will evoke emotional responses....” (ECF 35 at 3.) Evidence or

language is unfairly prejudicial if it has “an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” *United States v. Sanford Ltd.*, 878 F. Supp. 2d 137, 143 (quoting Fed. R. Evid. 403, advisory committee’s note). By their very nature, criminal charges involve an accusation that someone has wronged another person or has wronged society. Accordingly, such charges arouse emotion—and there is nothing improper about that. Indeed, while cautioning against prosecutorial misconduct in *United States v. Berger*, the Supreme Court simultaneously recognized that “[t]he United States Attorney . . . may prosecute with earnestness and vigor—indeed, he should do so.” *Berger*, 295 U.S. 78, 88 (1935). “[T]he law permits the prosecution considerable latitude to strike ‘hard blows’ based on the evidence and all reasonable inferences therefrom.” *United States v. Rude*, 88 F.3d 1538, 1548 (9th Cir. 1996) (quoting *United States v. Baker*, 10 F.3d 1374, 1415 (9th Cir. 1993)). When a prosecutor’s comments fairly characterize the offense, fairly characterize the defendant’s conduct, and represent fair inferences from the evidence, they are not improper. *Cf. Rude*, 88 F.3d at 1548 (the use of words like victim, deceit, outlandish, gibberish, charlatan, and scam was not improper); *Guam v. Torre*, 68 F.3d 1177, 1180 (9th Cir. 1995) (“[T]here is no rule [of evidence or ethics] requiring the prosecutor to use a euphemism for [a crime] or preface it by the word ‘alleged.’”).

Here, the government should not be required to dilute its language and step gingerly around Celentano’s crimes. Contrary to the defendant’s insinuations, what took place on January 6, 2021, was in fact a riot involving rioters, and an attack on the United States Capitol, the government of the United States, and American democracy. Defendant, however, does not grapple with the fact that the words also accurately describe the events that occurred on January 6, 2021.²

² See *Insurrection*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/insurrection> (last visited Jan. 30, 2023) (“an act or instance of revolting against civil authority or an established government”); *Attack*, MERRIAM-WEBSTER,

After carefully considering the facts of other January 6 cases, the D.C. Circuit and many other members of the Court have recognized the riot as just such an attack, using these terms throughout January 6 proceedings. *See, e.g., United States v. Mostofsky*, 1:21-cr-138 (JEB), Sent. Tr. at 40–41, May 6, 2022 (describing the riot as an “attack,” describing the Capitol as “overrun,” and describing Mostofsky and other rioters as engaged in “an attempt to undermine [our] system of government.”); *United States v. Rubenacker*, 1:21-cr-193 (BAH), Sent. Tr. at 147–48, May 26, 2022 (describing the defendant as “part of this vanguard of people storming the Capitol Building” as part of the initial breach, and finding that his conduct “succeeded, at least for a period of time, in disrupting the proceedings of Congress to certify the 2020 presidential election”); *United States v. Languerand*, 1:21-cr-353 (JDB), Sent. Tr. at 33–34, January 26, 2022 (“[T]he effort undertaken by those who stormed the Capitol . . . involved an unprecedented and, quite frankly, deplorable attack on our democratic institutions, on the sacred ground of the United States Capitol building, and on the law enforcement officers who were bravely defending the Capitol and those democratic values against the mob of which the defendant was a part.”).

See also, Trump v. Thompson, 20 F.4th 10 (D.C. Cir. 2021) (using the terms “insurrection,” “riot,” “rioters,” “attack,” and “mob” throughout the opinion); *United States v. Munchel*, 991 F.3d 1273 (D.C. Cir. 2021) (using the terms “insurrection,” “riot,” “rioters,” and “mob” throughout the opinion); *United States v. Bledsoe*, No. 21-cr-204 (BAH), 2022 WL 3594628; at *2 (D.D.C. Aug. 22, 2022) (describing “The January 6, 2021 Attack on the Capitol” and referring to the “mob,”

<https://www.merriam-webster.com/dictionary/attack> (last visited Jan. 30, 2023) (“the act of attacking with physical force or unfriendly words: assault”); *Riot*, MERRIAM-WEBSTER, <https://www.merriamwebster.com/dictionary/riot> (last visited Jan. 30, 2023) (“a violent public disorder”); *Rioter*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/rioter> (last visited Jan. 30, 2023) (an individual who “create[s] or engage[s] in a riot”); and *Mob*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/mob> (last visited Jan. 30, 2023) (“a large and disorderly crowd of people”).

“riot,” and “rioters”); *United States v. Ballenger*, No. 21-cr-719 (JEB), 2022 WL 16533872 (D.D.C. Oct. 28, 2022) (referring to the January 6, 2021, “insurrection” and “attack”); *United States v. Grider*, No. 21-cr-22 (CKK), 2022 WL 3016775 (D.D.C. July 29, 2022) (referring to January 6, 2021, as an “insurrection” and “riot” committed by “rioters” and a “mob”); *United States v. Reffitt*, No. 21-cr-32 (DLF), 2022 WL 1404247 (D.D.C. May 4, 2022) (referring to the January 6, 2021, “insurrection” committed by “rioters” and a “mob”); *United States v. Bingert*, No. 21-cr-91 (RCL), 2022 WL 1659163 (D.D.C. May 25, 2022) (referring to January 6, 2021, as an “insurrection” and “riot” committed by “rioters” and a “mob”).

This language is not hyperbole; rather, it accurately describes visceral and violent events. The government needs to use appropriate language—and not euphemisms—to describe the nature and gravity of Celentano’s conduct.

As Chief Judge Howell stated, “the terms also overlap with elements of the charged offenses, which the government must prove at trial. For example, obstructing, impeding, or interfering with law enforcement duties incident to and during a civil disorder of many hundreds of people, or a mob, is a violent public disorder, or a riot. Knowingly engaging in physical violence against any person or property using physical force is an assault, or an attack. Obstructing, influencing, or impeding an official government proceeding with the intent to disrupt an electoral vote is a revolt against an established government, or an insurrection. While these terms could trigger emotional responses in some individuals, the mere use of these terms does not, at this stage, signal prejudice that substantially outweighs their probative value. Thus, muzzling the government and witnesses from employing commonly used words and phrases to describe the events on January 6, 2021, is impractical and does not amount to unfair prejudice in violation of

Federal Rule of Evidence 403.” *United States v. Gillespie*, 22-cr-60 (BAH) (November 30, 2022, ECF 43 at 6-7.)

For the reasons stated above, Defendant Celentano’s motion should be denied.

Respectfully submitted,

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