

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, )  
 )  
 v. ) No. 22-cr-186 (TJK)  
 )  
 RALPH JOSEPH CELENTANO III, )  
 )  
 Defendant )  
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**DEFENSE REPLY IN FURTHER SUPPORT OF MOTION IN LIMINE TO  
PRECLUDE THE USE OF CERTAIN LANGUAGE**

Mr. Celentano, through counsel, submits this reply in further support of his motion to exclude inflammatory, prejudicial and conclusory language referring to Mr. Celentano and others on January 6, 2021 such as “riot,” “rioter,” “insurrection,” “insurrectionist,” “mob,” “disorderly conduct,” and “trespass” because such language violates the presumption of innocence, and lessens the government’s burden of proof. The government insists it is permitted to use inflammatory labels that presuppose Mr. Celentano’s guilt and further prejudice the jury. ECF No. 38.

Mr. Celentano has not been convicted of anything and using such conclusory terms is akin to using the word “victim” in many criminal trials where that has been clearly prohibited because it violates the presumption of innocence. *See e.g., United States v. Vance*, 19-cr-251 (RDM), ECF No. 33 (government agreeing to call

the alleged victim by his full name to avoid prejudicial impact of using the word “victim”).<sup>1</sup>

There is a particularly strong prejudicial effect when the government signals its belief that the defendant is guilty:

When a prosecutor gives his personal opinion on the ...defendant’s guilt, the Supreme Court explained that ‘such comments can convey the impression that evidence not presented to the jury, but known to the prosecutor, supports the charges against the defendant and can thus jeopardize the defendant’s right to be tried solely on the basis of the evidence presented to the jury. (citation omitted). ‘The prosecutor’s opinion,’ the Supreme Court reasoned, ‘carries with it the imprimatur of the Government and may induce the jury to trust the Government’s judgment rather than its own view of the evidence.’ (citation omitted).

*United States v. Hampton*, 718 F.3d 978, 983 (D.C. Cir. 2013). Courts have found that the word “victim” should not be used in a case where the commission of a crime is in dispute.” *Jackson v. State*, 600 A.2d 21, 24 (S. Court. Del. 1990). The word “victim” in most criminal cases is similar to the analysis in January 6 cases because by using words like “insurrectionist, rioter, attacker,” the government is inappropriately telling the jury that Mr. Celentano is already guilty while he is maintaining his innocence before them. Even the word “rioter” presupposes that Mr. Celentano is guilty of being disorderly or disruptive, two of the alleged charges in the indictment.

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<sup>1</sup> In support of its argument that it is appropriate to use the “riot” language at trial, the government cites to cases in which this Court and others have employed such language in sentencings. See ECF No. 38 at 5. Manifestly, a judge using such descriptions in the context of a sentencing, after a defendant has been found guilty, should hardly give license to a prosecutor to label a defendant as such in front of jury that is required to presume the defendant innocent.

There is no justifiable need to use such terms that would outweigh the interest in protecting the presumption of innocence that our criminal justice system is based upon. The government can refer to Mr. Celentano as “Mr. Celentano” and other individuals as “other individuals present,” but should be precluded from using inaccurate and highly prejudicial words that will unnecessarily prejudice the jury against Mr. Celentano.

Respectfully submitted,

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