

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

**UNITED STATES OF AMERICA**

**v.**

**MATTHEW JASON  
BEDDINGFIELD**

**Case no.: 22-CR-66 (CJN)**

**Motion in Limine**

Matthew Beddingfield by and through Counsel, hereby moves the Court to exclude any testimony, allocution and/or victim impact statement from Aquilino Gonell at Mr. Beddingfield's sentencing hearing. In support of this motion, Mr. Beddingfield states the following:

1. The Statement of the Offense (D.E. 40, ¶9), authored by the Government, sets out the description of the assaultive conduct as follows:

“On January 6, Beddingfield attended the “Stop the Steal” rally and then marched with his father and other protestors to the Capitol. At about 12:57 p.m., Beddingfield walked through restricted Capitol grounds and up the Maryland Walkway carrying his flag. Less than a minute later, he jumped a barricade and ran towards police officers on the West Plaza. At approximately 1:06 to 1:07., Beddingfield and other rioters yelled at and physically attacked police officers on the West Plaza. Beddingfield used

the flagpole of the flag he was carrying to jab at and strike ***a*** [bold italics added] police officer. Beddingfield then swung the flagpole at another police officer and threw a piece of the flagpole at the line of police officers.”

2. Through discovery disclosures, the government identified Officer David Callahan as the victim of Mr. Beddingfield’s assault with the flagpole. Officer Callahan, represented by USCP attorney Lisa Walters, was interviewed by the Federal Bureau of Investigation on March 15, 2022. The FBI agents showed Officer Callahan the video of Mr. Beddingfield using his flagpole to jab at an officer. Officer Callahan advised the FBI that he recognized himself in the video and that “the officer shown in the video was without question him.” (See Exhibit 1)
3. Mr. Beddingfield reviewed the FBI’s report of their interview with Officer Callahan and based his decision to plead guilty in part on Officer Callahan’s statement.
4. On July 6, 2023, the Government filed a sentencing memorandum, and for the first time, stated the “victim officer” of Mr. Beddingfield’s assault is USCP Sergeant Aquilino Gonell. USCP Sergeant Gonell was not previously identified by the government as a victim or witness in Mr. Beddingfield’s case. The government has now advised defense counsel that USCP Sergeant Gonell would be present at Mr. Beddingfield’s sentencing hearing to allocute as the victim of Mr. Beddingfield’s offense conduct.

5. Notably, Officer Callahan was not mentioned nor noted as a victim in the government's Sentencing Memorandum.
6. Until Thursday's disclosure of USCP Sergeant Gonell as the victim of Mr. Beddingfield's instant offense conduct, the defense was unaware that anyone other than USCP Officer David Callahan had self-identified as the "victim officer" in the relevant video.
7. Pursuant to 18 U.S.C. §3771 (e)(2), "Crime Victim" is defined as "[A] person directly and proximately harmed as a result of the commission of a Federal Offense..." Officer Callahan was the individual the government identified as the victim of Mr. Beddingfield's instant offense conduct, and for whom Mr. Beddingfield admitted to assaulting, not USCP Sergeant Gonell. Hence, it would be improper to permit USCP Sergeant Gonell to allocate as the crime victim at Mr. Beddingfield's sentencing hearing.
8. The government likely had not charged Mr. Beddingfield with an assault on USCP Sergeant Gonell because USCP Sergeant Gonell himself had previously identified another individual as the man who assaulted him. On Friday, July 7, 2023, the government provided the defense with an FBI report of interview of Officer Gonell dated April 27, 2022. According to this FBI "302", Officer Gonell described his experience on January 6, 2020 at the U.S. Capitol in the following relevant part:

At approximately 8:22 elapsed time in the video, a male in a gray hooded sweatshirt with a white beard assaulted GONELL with a flagpole. The individual stabbed GONELL with the flagpole two to three times in his waist

and thigh resulting in bruises. A male wearing a black and gray two-tone jacket [agent note: MATTHEW BEDDINGFIELD] and three other rioters pushed against the line of law enforcement officers. SA Burns paused the video. Upon doing so, GONELL indicated he recalled the man in the black and gray two-tone jacket as one of the individuals who *potentially* [italics added] GONELL during the melee. GONELL did not recall any specific words from this individual during the incident. This individual, who was among those pushing officers, was impeding the officers, including GONELL, from being able to do their job. (See Exhibit 2)

9. On July 7, 2023, USCP Sergeant Gonell, posted a Tweet with a picture of a white male with a white beard jabbing a pole at a police office. Officer Gonell tweeted, “This is him attacking me...” The Tweet photo shows the male with the gray hooded sweatshirt and white beard assaulting Officer Gonell, not Mr. Beddingfield. (See Exhibit 3).

10. On Thursday, July 6, 2023, the government provided defendant a copy of Officer Gonell’s victim impact statement. Now more than 2.5 years after the instant offense and for the first time, Officer Gonell identifies himself as the individual Mr. Beddingfield struck with a flagpole.

11. Due to the late disclosure of Officer Gonell’s victim impact statement claiming he was the victim of Mr. Beddingfield’s offense conduct, the discrepancies between Officer’s Gonell’s April 27, 2022 statement and his Thursday, July 6, 2023 Tweet, as well as the former assertion by USCP Officer David Callahan’s that he was the victim of the instant offense conduct, it would be improper to allow Officer Gonell to present his victim impact statement and/or allocate as the alleged victim.

12. A quick google search of Officer Gonell reveals that he has testified as a victim/officer in other January 6 defendants' cases. Due to the volume of video, defendant is without adequate time to explore Officer Gonell's locations during these other assaults and their timing in connection to Mr. Beddingfield's actions on January 6<sup>th</sup>.

13. Officer Gonell's inconsistent statements and social media content raise serious issues as to the indicia of reliability required to allow Officer Gonell's claims to be considered at Mr. Beddingfield's sentencing. USSG §6A1.3. FRCP 32. It would be a Constitutional Due Process Violation to allow USCP Sergeant Gonell to allocate as the victim at Mr. Beddingfield's sentencing due to serious issues as to the indicia of reliability and the tardiness of identifying USCP Sergeant Gonell as a victim.

WHEREFORE, based on the foregoing and additional arguments to be presented at a hearing on the merits of this motion, Mr. Beddingfield respectfully requests the Court exclude any allocution and/or presentation of Officer Aquilino Gonell's victim impact statement at Mr. Beddingfield's sentencing.

Respectfully submitted this 10<sup>th</sup> day of July, 2023.

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*CERTIFICATE OF SERVICE*

I HEREBY CERTIFY that a copy of the foregoing was served upon:

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by electronically filing the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the above.

This the 10<sup>th</sup> day of July, 2023.

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