

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA : Case # 1:22-cr-00121-TNM
 :
 v. :
 :
 Jared Paul Cantrell :
 Quentin G. Cantrell :
 Eric Andrew Cantrell :

MOTION IN LIMINE TO EXCLUDE OUT-OF-TIME EVIDENCE

Pursuant to the Court’s scheduling Order, Defendant Quentin G. Cantrell (“QGC”) moves to exclude all evidence the Government produced after the July 1, 2022 hearing.

Argument

A. Documentary Evidence

At the April 27, 2022 hearing, the Court held that the Government was to produce all evidence it sought to use to prove its cases-in-chief against the Cantrells by the July 1, 2022 status conference, at the latest. It repeated this order at the July 1, 2022 status conference.

The Government has produced evidence in batches, which it apparently sends out to all January 6 defendants simultaneously. (See Dkt. # 33, Statement of Facts, for a summary of the Government’s discovery procedures in this case.) The last of these prior to the July 1, 2022 status conference was Batch 16, which was sent out under a cover letter dated June 27, 2022. See Dkt. 33, Exhibit D (DoJ letter from Emily Miller). Batch 17 was sent out under after the Court’s deadline, under a cover letter dated July 12, 2022. See Exhibit A.

Most if not all of what the Government has produced in Batches 15 and later appears not to be anything the Government intends to use to prove its case. Rather, it appears mostly to be the Government’s effort to respond to discovery requests of certain defendants, and to pro-actively provide that information to all January 6 defendants. Regardless, as previously discussed, the volume of information produced is titanic—potentially taking *days* of computer time simply to transfer the files, to say nothing of the time that would be required to properly review the evidence. See Dkt 33, Exhibit D.

Consequently, it would be unreasonable to expect defendants facing misdemeanor charges to have to review all of that data to prepare their defense. Certainly, QGC has never agreed, pursuant to Fed. R. Crim. P. 16.1(a), to this procedure.

Defendant QGC therefore moves this Court in limine to exclude everything that was not produced via the USAfx database prior to July 1, 2022. In particular, QGC moves in limine for the exclusion of everything in Production Batches 17 and later because they were not timely produced, and in Batches 15 and later because burying it among terabytes of data requiring literal days to transfer is not effective production

B. Witnesses

To date the Government has not identified any witnesses it intends to call, or the subject of their anticipated testimony. When counsel for QGC asked whether the prosecution intended ever to identify its witnesses, it indicated that it would answer by Friday, February 17, but it failed to provide even that information. QGC has therefore had no meaningful opportunity to prepare a defense against any witness testimony, with the exception of Gary Warfield, who prepared the affidavit in support of QGC's arrest. QGC therefore moves in limine for the exclusion of any prosecution witnesses except for Gary Warfield, and for the exclusion of any testimony of Gary Warfield beyond the subject matter addressed in his affidavit.

Conclusion

For the foregoing reasons, the Court should GRANT defendant QGC's motion.

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By: _____

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