

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

<b>UNITED STATES OF AMERICA</b>	:	<b>Case # 1:22-cr-121</b>
	:	
v.	:	
	:	
<b>Jared Paul Cantrell</b>	:	
<b>Quentin G. Cantrell</b>	:	
<b>Eric Andrew Cantrell</b>	:	

**MOTION PERSUANT TO RULE 15**

Pursuant to Rule 15 of the Federal Rules of Criminal Procedure, Defendant moves to take the trial deposition of Guillermo Cosson, to reduce his testimony, including the Government’s cross-examination regarding Daubert issues, to the form of a video transcript.

**I. Facts**

1. Defendant QGC in this case with four counts, all misdemeanors.
2. In response to Defendant’s Motion to Dismiss the Government argued that it would attempt to prove mens rea by means of 3d-party cell phone recordings in which, it contended, “several people can be heard yelling ‘Teargas!’” Dkt. 42, p. 6-7. The Government argued that “a reasonable jury could make inferences and conclusions about what was occurring at the time of the video and a defendant’s knowledge regarding permission to enter.” *Id.*
3. The Government also argued that another 3d-part cell phone recording included a “piercing, high-pitched alarm,” and that it would argue from that video that the defendants heard the alarm. *Id.*
4. The Government has failed to identify the individuals who recorded these videos, and has also failed to identify any sponsoring witness, who might testify that the video accurately reflects

the actual events that are depicted—especially, the relative volume of sounds in the environment, including those the Government contends are so important to its case. *Id.*

5. To help prepare his defense, counsel for the defendant, QGC, spoke to an expert in cell phone recording devices, Guillermo Cosson. Dkt. 56, Ex. 1.

6. Mr. Cosson lives and works in Houston, Texas. *Id.*

7. Mr. Cosson noted that cell phone recording devices are unreliable for such details, because the recording can be affected by a number of variables other than the events recorded, including movement of the individual making the recording and movement of the device itself. His anticipated testimony is summarized in his report, which was provided to the Government and filed with the Court. *Id.*

8. The Government has raised a Daubert challenge to Mr. Cosson’s testimony. Dkt. 57.

## **II. Legal Standard**

Rule 15 allows defendants to move for the trial deposition of a prospective witness. Fed. R. Crim. P. 15(a)(1). One ground for ordering such a deposition is to save the expense of having a witness travel out-of-state to testify at trial. See *Copeland v. Ryan*, 852 F.3d 900 (9th Cir., 2017). In *Copeland*, for example, the court granted a defense motion for the video deposition of two witnesses who did not live in Arizona, in order to save the unnecessary expenses of airfare, lodging, meals, etc. *Id.*, at 903-04.

## **III. Argument**

QGC seeks to reduce costs and streamline trial by reducing Mr. Cosson’s testimony to video transcript. QGC anticipates that his deposition testimony presented at trial would take on the order of 20 minutes. To have Mr. Cosson fly from Houston to Washington, D.C., would result in expenses that are neither necessary nor appropriate for this relatively small testimonial role.

QGC also expects that a trial deposition would reduce the amount of trial time required to present Mr. Cosson's testimony. The Government has challenged Mr. Cosson on both the grounds of his qualifications as well Daubert. Dkt. 57. Although QGC believes these challenges will ultimately prove unsupported, the Government is obviously entitled to cross-examine him to explore these theories. A trial deposition would allow them to do so, but then, by means of the designations of the parties, lines of questioning that neither party believes relevant can be edited out.

QGC therefore respectfully submits that this is the best way to preserve the resources of both the parties and the court.

#### **IV. Conclusion**

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

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By:     /s/ David Issa    

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