

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	<b>Criminal Case No.</b>
<b>Complainant</b>	)	
	)	<b>1:21-cr-00623 (CRC)</b>
<b>v.</b>	)	
	)	<b>1:22-cr-00025 (APM)</b>
<b>KIRSTYN NIEMELA,</b>	)	
	)	
<b>Defendant</b>	)	

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**MOTION OF DEFENDANT KIRSTYN TO APPEAR IN  
JUNE 8 SENTENCING HEARING BY VIDEOCONFERENCING**

Plaintiff KIRSTYN NIEMELA (“Niemela”) by undersigned counsel, hereby moves the Court to allow her to appear by video conferencing such as by zoom or similar system including the Court’s video conferencing system in the U.S. District Court for the District of Columbia and perhaps also in the U.S. District Court for the District of New Hampshire at 55 Pleasant Street, Room 110, Concord, NH 03301-3941, 603-225-1423, for the sentencing hearing rescheduled for June 8, 2023, at 10:00 AM.

Defendant Niemela required clearing absence from work 10 days in advance to be able to drive down to Washington, D.C., the night before the previously-scheduled sentencing hearing set on May 31, 2023, at 10:00 AM. After the drive down and time off from work and expenses, Defendant Niemela was unable to proceed with preparations and the Court postponed the hearing after the Defendant’s counsel’s entire team became ill working in close proximity. The team had pushed through a roughly 9-10 day trial with advance preparations and long-nights of motions directed for them to file. But the push through symptoms proved too much. One member cleared two COVID

tests as negative (not infected) and the under-signed counsel has documentation as needed to assure the Court of a severe upper bronchial infection requiring treatment at an urgent care clinic.

It might be noted that Defendant Niemela carefully complied with the terms of her bail by showing up at court even knowing that her attorney could not be there but was at an urgent care clinic, in order to assure that she appeared at every required court hearing under the terms of bail.

Now, however, Defendant Niemela would have to be absent again from work without being able to provide the minimum 10 days notice (even if that had been given instantly on May 31) required by her employer.

As briefed separately, Defendant and counsel that the four overlapping misdemeanors at issue do not warrant overwhelming punishment any more than the protestors who loudly and aggressively took over the Hart U.S. Senate Office Building and repeatedly disrupted the U.S. Senate Judiciary Committee to – as openly declared as their intention – prevent the confirmation of then Judge Brett Kavanaugh to the U.S. Supreme Court. Niemela is accused of doing nothing but calmly, quietly, and peacefully walking through the U.S. Capitol. Those who screamed in the Hart Senate Office Building at the top of their lungs and disrupted one-third of the U.S. Senators' offices and physically prevented the conduct of business in the U.S. Senate Judiciary Committee were released on bail ranging from around \$35 to \$50 each, with charges against most of those rioters dropped in 2018.

Therefore, Defendant's counsel believes this is a situation where appearance by zoom or the like would be workable and appropriate.

#### CONCLUSION

The Court is asked to enter an order permitting Kirstyn Niemela to participate in the sentencing hearing by whatever system the Court and/or the Court's clerk advises is best under the circumstances with consideration of suggestions by the Government. The Court is asked to order that

Niemela would be in compliance with the terms of her bail by appearing in such manner. The Court is asked to review other documents to understand why Defendant contends that the case does not warrant severe punishment in being able to make this decision and other decisions.

Dated: June 3, 2023

RESPECTFULLY SUBMITTED  
KIRSTYN NIEMELA, *By Counsel*

\_\_\_\_\_/s/\_\_\_\_ John M. Pierce\_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that this motion is being filed on this June 3, 2023, with the Clerk of the Court by using the U.S. District Court for the District of Columbia's CM/ECF system, which will send an electronic copy of to the following CM/ECF participants. From my review of the PACER account for this case the following attorneys are enrolled to receive notice and a copy through the ECF system.

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\_\_\_\_\_/s/\_\_\_\_\_  
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