

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA	*	
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V.	*	Case No. 1:21-CR-623-2 (CRC)
	*	
KIRSTYN NIEMELA	*	
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**DEFENDANT'S PROPOSED JURY INSTRUCTIONS**

In accordance with this Court's pretrial scheduling order, the Defendant proposes the attached jury instructions.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA \* UNITED STATES OF AMERICA \*\*  
V. \* Case No. 1:21-CR-623-2 (CRC) \* KIRSTYN NIEMELA \*\* DEDENDANT'S PROPOSED JURY

INSTRUCTIONS In accordance with this Court's pretrial scheduling order, the Defendant proposes the attached  
COUNT THREE: ENTERING AND REMAINING IN A RESTRICTED BUILDING OR GROUNDS

County three of the indictment charges the Defendant with entering and remaining in a restricted building and grounds, that is, any posted-off, and otherwise restricted area within the United State's Capitol and its grounds, where the Vice President was and would be temporarily visiting, without lawful authority to do so. Elements In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt: • First, that the Defendant entered and remained in a restricted building without lawful authority to do so. • Second, the Defendant knew it was unlawful to enter and remain in the restricted building. • Third, that the Defendant did so intentionally, and not by accident or mistake or against her will. A person who enters into a restricted area with a good faith belief that she is entering with lawful authority is not guilty of this offense. Thus you cannot find the Defendant guilty of Count Three unless you are convinced beyond a reasonable doubt that she did not have a good faith belief of her lawful authority to enter or remain in the restricted building. Definitions The term "restricted building or grounds" means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting. The term "person protected by the Secret Service" includes the Vice President and the immediate family of the Vice President". A person acts "knowingly" if she realizes what she is doing and it aware of the nature of her conduct and does not act through ignorance, mistake, or accident. In deciding whether the Defendant acted knowingly, you may consider all of the evidence, including what the Defendant did or said.

**Elements**

COUNT FOUR: DISORDERLY AND DISRUPTIVE CONDUCT IN A RESTRICTED BUILDING OR GROUNDS  
Count Four of the indictment charges the Defendant with knowingly, and with intent to impede and disrupt the orderly conduct of Government business and official functions, engage in disorderly and disruptive conduct in and within such proximity to, a restricted building and grounds, that is, any posted, cordoned off, and otherwise restricted area within the United State's Capitol and its grounds, where the Vice President was and would be temporarily visiting, when and so that such conduct did in fact impede and disrupt the orderly conduct of Government business and official functions. Elements: In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt: • First, that the Defendant engaged in disorderly and disruptive conduct in, or in proximity to, any restricted building or grounds. • Second, that the Defendant did do knowingly, and with the intent to impede or disrupt the orderly conduct of Government business and official functions. • Third, that the Defendant's conduct did in fact impede and disrupt the orderly conduct of Government business and official functions. Definitions: "Disorderly conduct" is conduct that occurs when a person is unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person. In other words, disorderly conduct is that which tends to disturb public peace, offend public morals, or undermine public safety. "Disruptive conduct" is conduct that interrupts an event, activity, condition, or the normal course of the process. The terms "restricted building or grounds" and "knowingly" have the same meanings described in the instructions for Count Three.

**Elements**

COUNT SIX: DISORDERLY CONDUCT IN A CAPITOL BUILDING  
Count Six charges the Defendant with willfully and knowingly engaging in disorderly and disruptive conduct in any of the capitol buildings with the intent to impede, disrupt, and disturb the orderly conduct of a session of Congress and either House of Congress, and the orderly conduct in that building of a hearing before or any deliberation of, a committee of Congress or either House of Congress. Elements: In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt: • First, that the Defendant engaged in disorderly and disruptive conduct in any of the United State's Capitol buildings during a session of Congress and either House of Congress. • Second, that the Defendant did so with the intent to impede, disrupt, and disturb the orderly conduct of a session of Congress or either House of Congress. • Third, that the Defendant acted willfully and knowingly. Definitions: The term "United State's Capital buildings" includes the United State's Capitol located at First Street, S.E. in Washington, D.C. The term "disorderly or disruptive conduct" has the same meanings described in the instructions of Count Four. The term "knowingly" has the same meaning described in the instructions in Count Three. The term "willfully" means that the Defendant acted with a bad purposes or evil-meaning mind; that is to say, she acted intentionally and purposely and with the intent to do something the law forbids. The Government need not prove that the Defendant was aware of the specific law or

**Definitions**

conduct may be violating, but the Government must prove that the Defendant knew that her conduct was unlawful. COUNT EIGHT: PARADING, DEMONSTRATING, OR PICKETING IN A CAPITOL BUILDING  
Count Eight of the indictment charge the Defendant with willfully and knowingly parading, demonstrating, and picketing in any United States' Capitol building. Elements: In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt: • First, that the Defendant paraded, demonstrated, or picketed in any of the United States' Capitol buildings. • Second, that the Defendant acted willfully and knowingly. Definitions: The terms "parade" and "picket" have their ordinary meanings. The term "demonstrate" refers to conduct that would disrupt the orderly business of Congress by, for example, impeding or obstructing passageways, hearings, or meetings but does not include activities such as quiet praying. The term "United States Capitol buildings" has the same meaning described in the instructions for Count Six. The term "knowingly" has the same definition as described in the instructions for Count Three. The term "willfully" has the same definitions as described in the instructions for Count Six. WHEREFORE, the Defendant, Kirstyn Niemela, respectfully requests that this Honorable Court: A) Instruct the jury in the Defendant's trial as outlined above in the Defendant's proposed jury instructions. B) Order such other relief as may be just and proper. Respectfully submitted Kirstyn Niemela, By her Attorneys, Date: January 19, 2023 /s/ Paul J. Garrity Paul J. Garrity, Bar No. 905 14 Londonderry Road Londonderry, NH 03053 603-434-4106 garritylaw@myfairpoint.net /s/ Richard F. Monteith Richard Monteith, Bar No. 9352 14 Londonderry Road Londonderry, NH 03053 603-437-2733 monteithlaw@aol.com CERTIFICATE OF SERVICE I, Richard F. Monteith and Paul J. Garrity, herein certify that on this 19th day of January, 2023, a copy of the within was e-filed

The term “person protected by the Secret Service” includes the Vice President and the immediate family of the Vice President”.

A person acts “knowingly” if she realizes what she is doing and it aware of the nature of her conduct and does not act through ignorance, mistake, or accident. In deciding whether the Defendant acted knowingly, you may consider all of the evidence, including what the Defendant did or said.

**COUNT FOUR: DISORDERLY AND DISRUPTIVE CONDUCT IN A RESTRICTED BUILDING OR GROUNDS**

Count Four of the indictment charges the Defendant with knowingly, and with intent to impede and disrupt the orderly conduct of Government business and official functions, engage in disorderly and disruptive conduct in and within such proximity to, a restricted building and grounds, that is, any posted, cordoned off, and otherwise restricted area within the United State's Capitol and its grounds, where the Vice President was and would be temporarily visiting, when and so that such conduct did in fact impede and disrupt the orderly conduct of Government business and official functions.

**Elements:**

In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt:

- First, that the Defendant engaged in disorderly and disruptive conduct in, or in proximity to, any restricted building or grounds.
- Second, that the Defendant did do knowingly, and with the intent to impede or disrupt the orderly conduct of Government business and official functions.
- Third, that the Defendant's conduct did in fact impede and disrupt the orderly conduct of Government business and official functions.

**Definitions:**

"Disorderly conduct" is conduct that occurs when a person is unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person. In other words, disorderly conduct is that which tends to disturb public peace, offend public morals, or undermine public safety.

“Disruptive conduct” is conduct that interrupts an event, activity, condition, or the normal course of the process.

The terms “restricted building or grounds” and “knowingly” have the same meanings described in the instructions for Count Three.

**COUNT SIX: DISORDERLY CONDUCT IN A CAPITOL BUILDING**

Count Six charges the Defendant with willfully and knowingly engaging in disorderly and disruptive conduct in any of the capitol buildings with the intent to impede, disrupt, and disturb the orderly conduct of a session of Congress and either House of Congress, and the orderly conduct in that building of a hearing before or any deliberation of, a committee of Congress or either House of Congress.

**Elements:**

In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt:

- First, that the Defendant engaged in disorderly and disruptive conduct in any of the United State’s Capitol buildings during a session of Congress and either House of Congress.
- Second, that the Defendant did so with the intent to impede, disrupt, and disturb the orderly conduct of a session of Congress or either House of Congress.
- Third, that the Defendant acted willfully and knowingly.

**Definitions:**

The term “United State’s Capital buildings” includes the United State’s Capitol located at First Street, S.E. in Washington, D.C.

The term “disorderly or disruptive conduct” has the same meanings described in the instructions of Count Four.

The term “knowingly” has the same meaning described in the instructions in Count Three.

The term “willfully” means that the Defendant acted with a bad purposes or evil-meaning mind; that is to say, she acted intentionally and purposely and with the intent to do something the law forbids. The Government need not prove that the Defendant was aware of the specific law or

rule that her conduct may be violating, but the Government must prove that the Defendant knew that her conduct was unlawful.



**COUNT EIGHT: PARADING, DEMONSTRATING, OR PICKETING IN A CAPITOL BUILDING**

Count Eight of the indictment charge the Defendant with willfully and knowingly parading, demonstrating, and picketing in any United States' Capitol building.

**Elements:**

In order to find the Defendant guilty of this offense you must find that the Government proved each of the following elements beyond a reasonable doubt:

- First, that the Defendant paraded, demonstrated, or picketed in any of the United States' Capitol buildings.
- Second, that the Defendant acted willfully and knowingly.

**Definitions:**

The terms “parade” and “picket” have their ordinary meanings.

The term “demonstrate” refers to conduct that would disrupt the orderly business of Congress by, for example, impeding or obstructing passageways, hearings, or meetings but does not include activities such as quiet praying.

The term “United States Capitol buildings” has the same meaning described in the instructions for Count Six.

The term “knowingly” has the same definition as described in the instructions for Count Three.

The term “willfully” has the same definitions as described in the instructions for Count Six.



WHEREFORE, the Defendant, Kirstyn Niemela, respectfully requests that this Honorable Court:

- A) Instruct the jury in the Defendant's trial as outlined above in the Defendant's proposed jury instructions.
- B) Order such other relief as may be just and proper.

Respectfully submitted  
Kirstyn Niemela,  
By her Attorneys,

Date: January 19, 2023

/s/ Paul J. Garrity  
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**CERTIFICATE OF SERVICE**

I, Richard F. Monteith and Paul J. Garrity, herein certify that on this 19th day of January, 2023, a copy of the within was e-filed for all parties involved and mailed, postage pre-paid, to Kirstyn Niemela.

Date: January 19, 2023

/s/ Paul J. Garrity  
Paul J. Garrity

/s/ Richard F. Monteith  
Richard Monteith