

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
COLUMBIA

**UNITED STATES OF AMERICA,**  
-v-  
**RICHARD SLAUGHTER, and**  
**CADEN GOTTFRIED,**  
**Defendants.**

Criminal No.: **1: 22-cr-00354-RCL-1**  
**and 2**

**DEFENDANTS REPLY TO**  
**UNITED STATES 'RESPONSE IN**  
**OPPOSITION TO DEFENDANT'S**  
**MOTION IN LIMINE TO**  
**PRECLUDE USE OF AERIAL**  
**PHOTOGRAPHY**

**DEFENDANTS' REPLY TO UNITED STATES 'RESPONSE IN**  
**OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE**  
**USE OF AERIAL PHOTOGRAPH**

COMES NOW, the Defendants Slaughter and Gottfried, by and through his counsel of record John Pierce, with this reply to “United States’ Response in Opposition to Defendants’ Motion in Limine to Preclude Use of Aerial Photograph” (“the Response”), Doc. 73. In their response United States seek to include a photograph that provides an aerial view of the Capitol grounds, that has been altered with a superimposed red line demarcating the restricted perimeter that was established on January 6, 2021.

This red-line demonstrative illustration is not an official record demarcating actual, truly restricted areas around the Capitol. The illustration was created for January 6 prosecutions after the facts of Jan. 6.

“Evidence is admissible if the proponent can “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R. Ev. 901(a); *United States v. Khatallah*, 41 F.4th 608, 623 (D.C. Cir. 2022) (showing is sufficient if it permits a reasonable juror to find the evidence is what its proponent claims) (internal quotation omitted).

In many January 6 trials, the government produces a Capitol Police officer witness who takes the stand and claims—without any laws, bylaws, supportive evidence of process, supportive evidence of votes, regulations, or other written support—that the conceptually-generated red line is representative of an actual perimeter of “restrictedness” on January 6. There is much available evidence that the red line does not designate actual barriers or fencing over much of its area on January 6, 2021.

**The Red Line Illustration is Confusing, Misleading, and overly prejudicial.**

The government’s use of the red line image is designed to instill in the jurors’ minds that the red line represents boundaries in place on January 6. Defendants submit that the government’s notions of restricted boundaries are more appropriately established by a witness on the stand testifying about actual, unaltered, images of the setting. The fake red-line artwork will give off the appearance that (1) restriction to enter were hugely posted, and were common knowledge known to everyone (2) that these alleged restrictions were known to the defendant; and (3) that these restrictions to this area were in effect during the time in question.

Furthermore the illustration of red, closely associated with stop and restrictions, which then gives off the appearance of something that would be obvious. All three of these appearances are indeed integral parts of the United State's case against the defendant. Allowing this altered photo would give off an undue bias that is unjust and can be seamlessly replaced with an unaltered-aerial photo. The United States have no argument that this alteration of the photograph is necessary to still be a summary exhibit as they intended. We urge the court to Grant our Motion of Limine to preclude the use of the altered aerial photographs as it would cause an unfair prejudice.

Dated: November 1, 2023

Respectfully Submitted,  
/s/ John M. Pierce John M. Pierce  
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*Attorney for Defendants*

CERTIFICATE OF SERVICE

I, John M. Pierce, hereby certify that on this day, November 1, 2023, I caused a copy of the foregoing document to be served on all counsel through the Court's CM/ECF case filing system.

/s/ John M. Pierce John M. Pierce