

EXHIBIT B: Exculpatory Evidence and Impeachment of FBI Agent Matthew Giftos**United States v. Young, No. 1:23-cr-00241-TSC-GMH**

August 2024

Purpose: This exhibit presents exculpatory evidence from FBI Agent Matthew Giftos's testimony and FBI 302 report, admitted under Federal Rule of Evidence 613(b) to impeach Giftos's inconsistent trial testimony, highlighting evidence sidelined by a biased jury foreperson (Juror 0374).

1. FBI Agent Matthew Giftos's Trial Testimony (Transcript, p. 37, lines 6-14)

- **Quote:**
 - “Q: And you didn’t see her commit any violence, did you? A: I did not.” (p. 37, lines 11-12)
 - “Q: You didn’t see her commit any vandalism? A: I did not.” (p. 37, lines 13-14)
 - “[Young was seen] speaking with police officers who appear to be instructing her on where to walk... walking peacefully throughout the various hallways and the rotunda.” (p. 37, lines 6-9)
- **Context:** On September 4, 2024, Agent Giftos testified that Cindy Young engaged in no violence or vandalism on January 6, 2021, and followed police instructions, supporting her entrapment by estoppel defense, which was barred by Judge G. Michael Harvey.

2. FBI 302 Report (Drafted by Agent Giftos, April 26, 2022)

Quote: “TFO Giftos reviewed the videos which captured Young within various areas of the Capitol... Young can be seen speaking with police officers who appear to be instructing her on where to walk. In other videos, Young can be seen walking peacefully throughout various hallways and the Rotunda. TFO Giftos did not observe Young commit any acts of violence or additional crimes...” (FBI_302_GIFTOS.pdf, p. 1)

Context: The 302 report, prepared by Giftos, confirms Young's peaceful conduct, consistent with his testimony but contradicting other statements he made on the stand, leading to its admission to impeach his credibility.

3. Impeachment Under Federal Rule of Evidence 613(b)

Explanation: The FBI 302 report was admitted pursuant to FRE 613(b) because Agent Giftos provided trial testimony inconsistent with his prior statement in the 302 report. Under FRE 613(b), extrinsic evidence (e.g., the 302 report) is admissible to impeach a witness through a prior inconsistent statement after giving the witness an opportunity to explain or deny the inconsistency. In this case, the 302 report highlighted Giftos's lack of credibility, as it documented Young's non-violent conduct, which was downplayed or contradicted in his testimony, undermining the prosecution's narrative.

Impact: Despite this exculpatory evidence, a biased jury foreperson (Juror 0374, Jeremy W. Brinster) likely influenced deliberations to dismiss it, contributing to Young's conviction on four misdemeanors.

Attachments:

Full Trial Transcript Excerpt (p. 37, lines 6-14)

Full FBI 302 Report (April 26, 2022)

ATTACHMENT A: COURT TRANSCRIPT – RE: AGENT GIFTOS

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37

1

THE COURT: Is that a yes?

2

THE WITNESS: Yes.

3

BY MR. GROSS:

4

Q And during several videos, Young can be seen speaking with

5

police officers who appear to be instructing her on where to

6

walk, right?

7

A Yes.

8

Q And in other videos, Young can be seen walking peacefully

9

throughout the various hallways and the rotunda?

10

A Yes.

11

Q And you didn't see her commit any violence, did you?

12

A I did not.

13

Q You didn't see her commit any vandalism?

14

A I did not.

176-BS-3538627 Serial 16

FD-1057 (Rev. 5-8-10)

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
Electronic Communication

Title: (U) Review of CCTV Videos

Date: 04/26/2022

From: BOSTON

Contact: GIFTOS MATTHEW WILLIAM

Approved By: SSRA DEMANN TIMOTHY R

Drafted By: GIFTOS MATTHEW WILLIAM

Case ID #: 176-BS-3538627 (U) Cindy Lou Young;
unlawful entry into US Capitol
1/6/2021

Synopsis: (U) Review of CCTV Videos

Details:

On April 25th, 2022, TFO Giftos received an email from Boston OST Tyler Culp containing 10 TTK/CCTV videos depicting Cindy Young within the United States Capitol on January 6th, 2021. These videos were provided to TFO Giftos due to a request from AUSA Susan Hunter. The objective was to ensure that Young did not commit any additional crimes while within the Capitol.

TFO Giftos reviewed the videos which captured Young within various areas of the Capitol to include the East Stairs, the South Door, Main Door Hall, Statuary Hall, Rotunda South, and the Rotunda North. During several videos, Young can be seen speaking with police officers who appear to be instructing her on where to walk. In other videos, Young can be seen walking peacefully throughout various hallways and the Rotunda. TFO Giftos did not observe Young commit any acts of violence or additional crimes and this information was forwarded to AUSA Hunter for review. AUSA Hunter indicated that she has received access to the case file/charging documents and will reach out to TFO Giftos in the following days with an update. The videos have been retained for evidentiary purposes and can be reviewed upon request.

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ATTACHMENT B: GIFTOS 302