

United States District Court for the District of Columbia

United States of America

v.

No. 1:21-cr-00032-DLF-1

Guy Wesley Reffitt

Motion for New Trial or in the Alternative Judgment on Count 3(a)

Defendant moves for new trial, because it is in the interest of justice. Fed. R. Crim. P. 33(a) and (b)(2). In support, he states:

1. The evidence is insufficient to sustain conviction on Counts One, Two Three, Four, and Five. *See* Motion for Judgment of Acquittal at 5–18.

2. Alternatively, the Court should enter a guilty finding on Count 3(a), because Officer Kerkhoff, Sergeant DesCamp, and Sergeant Flood each testified that Mr. Reffitt was told to get back. Tr. Mar. 2, 2022 at 602–735; Tr. Mar. 7, 2022 at 1273–1305, 1322–1349.

3. They each testified, Mr. Reffitt was hit with pepper balls, weighted plastic impact projectiles, and he was pepper sprayed. *Ibid.*

4. As soon as he was pepper sprayed, that was the end of it, and he sat down on the banister railing. *Ibid.*

5. Sergeant Des Camp testified that Mr. Reffitt was incapacitated. *Ibid.*

6. The Capitol Police video corroborated the Capitol Police Officers' testimony. Exhibit 205.

Request for Hearing

Defendant requests a hearing. Loc. Cr. R. 47(f).

/s/ William L. Welch, III

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Certificate of Service

I hereby certify that on this 21st day of March 2022 a copy of the foregoing Motion for New Trial or in the Alternative Judgment on Count 3(a) and Request for Hearing were delivered electronically to Mr. Jeffrey S. Nestler (jeffrey.nestler@usdoj.gov) and Ms. Risa Berkower (risa.berkower@usdoj.gov), Office of the United States Attorney, 555 Fourth Street, NW, Washington, DC 20530.

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Order

Having considered the parties' papers and arguments, it is ordered this _____ day of _____ 2022 that the defendant's Motion for Judgment on Count 3(a) is **Granted**.

Dabney L. Friedrich
United States District Judge