

**United States District Court for the District of Columbia**

**United States of America**

**\***

**v.**

**\***

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

**Guy Wesley Reffitt**

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**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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(Appointed by this Court)

**Certificate of Service**

I hereby certify that on this 21<sup>st</sup> 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.

*/s/ William L. Welch, III*

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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**.

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Dabney L. Friedrich  
United States District Judge