

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - FELONY BRANCH

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| UNITED STATES OF AMERICA | : | Criminal Case Nos. 2017 CF2 1300 |
| | : | 2017 CF2 1296 |
| v. | : | 2017 CF2 1163 |
| | : | 2017 CF2 1238 |
| KIMBERLY CAIN, | : | 2017 CF2 1326 |
| MALLY ESPAILLAT, | : | |
| ANTHONY FELICE, | : | Chief Judge Robert Morin |
| JAMES HOOPES, and | : | |
| SOAN STEFFON | : | Trial: 03/26/2018 |

NOTICE OF INTENT TO ADMIT EXPERT TESTIMONY

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and pursuant to Rule 16(a)(1)(E), hereby provides the following expert notice regarding an expert who the government intends to call to testify at trial in the above-captioned cases. This Notice supplements the expert notice previously filed in October 2017.

The government intends to call “Julie McMahon” as an expert witness to testify regarding the “black bloc” tactic, and its use on January 20, 2017.¹ Specifically, the term “black bloc” refers to a tactic, not a particular group or organization. The “black bloc” tactic involves participants dressing in all black clothing and concealing their faces with masks, bandanas, and other clothing items. This tactic makes it difficult for law enforcement to identify the individual perpetrators of violence or destruction within the larger group. Logos or other distinctive features of clothing are often obscured with black tape or other material. Masks, bandanas, goggles, or other items are used to both conceal the participant’s identity and also to protect against chemical or other dispersal agents used by law enforcement. Participants in the “black bloc” often wear other clothing underneath their black clothing, or carry other clothing to change into to avoid detection

¹ “Julie McMahon” is an alias. Pursuant to the Motion in Limine that is being filed contemporaneously with this Notice, the government is requesting that the Court permit the expert to testify publicly under this alias, with the implementation of appropriate measures to ensure a fair trial for all parties.

by law enforcement. In addition, participants in the “black bloc” often carry pipes, wooden sticks, spray paint, projectiles, or other weapons, and wear protective padding and helmets in anticipation of destruction, violence and/or confrontation with law enforcement. Participants in the “black bloc” often bring items that can serve a dual purpose (i.e., a sign that can double as a shield, a large banner that can be used to project a message and block the passage of police trying to carry out an arrest, or an umbrella that can also be used to deflect pepper spray).

Participants in the “black bloc” often have different roles, with some individuals taking “direct action” (a term used to describe acts of violence or destruction); some individuals serving as “marshals” for the group; other individuals serving as “scouts” to alert the group to the presence of law enforcement and identify possible targets for destruction or violence; other individuals serving as medics; and other individuals moving with the group to maintain a larger group size making individual arrests more difficult. Walkie-talkies or other hand held communication devices are often used by participants to communicate during the action. Individuals participating in the “black bloc” will also work to reabsorb those engaging in acts of violence or destruction to protect them from arrest, and will engage in a practice called “unarrest” or “de-arrest” which often involves physically pulling a member of the “black bloc” away from law enforcement to protect the member from arrest.

The “black bloc” tactic is often used by individuals involved in the anarchist movement. The most common symbol utilized by anarchists is the “Anarchy A”, which is composed of a capital letter “A” inside a circle. This is the same symbol that was spray-painted on vehicles and property during the January 20, 2017 riot. Another common symbol utilized by anarchists on flags is either solid black flag, or a red and black rectangle. Individuals in the anarchist movement

generally operate within an “affinity group”, which is a group of individuals working together to achieve a shared goal. It is common for multiple “affinity groups” to work together.

The government expects that “Julie McMahon” will opine that the “black bloc” tactic was used on January 20, 2017 by those individuals participating in the unpermitted Anti-Capitalist march (including the above-captioned defendants). Ms. McMahon will opine that the language used during the January 8, 2017 planning meeting is consistent with an intent to use the “black bloc” tactic to engage in violence and destruction. Ms. McMahon will opine that the discussion during the planning meeting regarding the risk of arrest, the use of communications and scouts to identify the location of law enforcement, the identification of the route going through gentrified neighborhoods, and the direction to wear all black clothing, is consistent with an intent to use the “black bloc” tactic so that individuals within the group can engage in acts of violence and destruction. Ms. McMahon will further opine that, in her training and experience, the “black bloc” tactic is only used when individuals within the group intend to engage in acts of violence and destruction, and that the “black bloc” tactic is a known term within the anarchist movement.

Ms. McMahon will further opine that the hammers, wooden sticks, crowbars, projectiles, spray paint, flares, and other weapons that individuals participating in the “black bloc” can be observed carrying and using are consistent with the use of the “black bloc” tactic to perpetrate violence and destruction. Ms. McMahon will opine that the clothing worn by each of the above captioned defendants (and their co-defendants) on January 20, 2017, to include the change of clothing by some participants is consistent with the “black bloc” tactic. Ms. McMahon will further opine that the use of marshals, scouts, and medics is consistent with the “black bloc” tactic. Ms. McMahon will opine that certain conduct by defendants – that is, pulling trash cans or other large objects into the streets, using umbrellas to deflect pepper spray, and using banners and flags as

shields and weapons – is consistent with the “black bloc” tactic and is designed to prevent law enforcement from apprehending individuals within the group. Finally, Ms. McMahon will opine that the evidence on the scene and recovered from defendants (to include crowbars and other weapons, explosive devices, walkie-talkies, helmets, goggles, masks, bandanas, and protective padding) is consistent with the “black bloc” tactic.

Ms. McMahon’s opinions will be based on her training and experience, and a review of video evidence, audio evidence, photographs, and the physical evidence found on the scene and seized from defendants. This experience includes her work in the Domestic Terrorism Operations Section of the Federal Bureau of Investigation. In this position, Ms. McMahon focuses her law enforcement efforts on domestic terrorism, to include extremist groups and individuals from all ends of the political spectrum, including white supremacists, environmental extremists, anarchist extremists, and anti-fascist extremists.

Ms. McMahon also worked in an undercover capacity for two years (from 2008-2010), infiltrating an anarchist extremist group in the New York area. In this undercover capacity, Ms. McMahon participated in the “black bloc” tactic during the G20 in Pittsburgh in 2008. In this undercover capacity, Ms. McMahon also prepared to participate in a “black bloc” tactic during the Occupy New York movement, but the “black bloc” did not materialize as expected. Ms. McMahon also attended numerous anarchist extremist meetings during this two-year undercover operation. In addition to her personal observations and experience as an undercover agent in the anarchist extremist movement, Ms. McMahon has also observed (as a law enforcement officer) the use of the “black bloc” tactic on multiple occasions, to include in Seattle and Minneapolis. Ms. McMahon has also researched and studied global instances where the “black bloc” tactic was utilized, including but not limited to: Seattle (1999); Washington, DC (2000); Minneapolis (2008);

Toronto (2010); Berkeley, California (2017); Washington, DC (2017) Portland, Oregon (2017); and Hamburg, Germany (2017).

In her current capacity, Ms. McMahon attends monthly trainings on domestic terrorism and extremist groups and tactics used by these groups, to include the “black bloc” tactic. Ms. McMahon also receives daily and/or weekly intelligence briefings on all facets of domestic terrorism operations, which includes extremist individuals and groups in the anarchist and anti-fascist movements and the tactics employed by these individuals and groups.

In reaching her opinion in this case, Ms. McMahon has reviewed the January 8, 2017 planning meeting videos, the aerial video of the riot (produced in discovery), the radio run during the time period 10:19am – 10:52am (produced in discovery), numerous videos (produced in discovery) that show the movement of the group throughout the riot and the specific acts of destruction, and body worn camera taken during the riot by Officer Rembiszewski, Officer Whitehead, and Officer Seaward.

Respectfully submitted,

JESSIE K. LIU
United States Attorney

/s/ Jennifer A. Kerkhoff
JENNIFER A. KERKHOFF
RIZWAN A. QURESHI
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served by electronic mail on the defendants' attorneys on this 2nd day of March 2018.

/s/ Rizwan A. Qureshi
RIZWAN A. QURESHI
Assistant United States Attorney