

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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|--------------------------|---|---------------------------|
| UNITED STATES OF AMERICA | : |                           |
|                          | : |                           |
|                          | : | Criminal No. 21-670 (CJN) |
|                          | : |                           |
| v.                       | : |                           |
|                          | : |                           |
| STEPHEN K. BANNON,       | : |                           |
|                          | : |                           |
| <i>Defendant.</i>        | : |                           |

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**MOTION IN LIMINE ON PRESENTING INDICTMENT TO THE JURY**

Defendant Stephen K. Bannon, by and through his undersigned counsel, respectfully moves *in limine* for a pretrial ruling that the entirety of the Indictment in this case will not be read to the jury, nor will the jury be given the Indictment during its deliberations. In support of this motion, we state as follows:

On November 12, 2021, Mr. Bannon was charged in a two count Indictment that alleged that his conduct after receiving a subpoena dated September 23, 2021, issued by the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”), constituted contempt of Congress, in violation of 2 U.S.C. § 192. [Doc. 1]. It is well-settled that an indictment is not evidence. *Taylor v. Kentucky*, 436 U.S. 478, 485 (1978) (defendant is entitled to determination of guilt or innocence solely on the basis of evidence, and not on grounds of indictment or other circumstances not adduced as proof at trial); *Dallago v. United States*, 427 F.2d 546 (D.C. Cir. 1969); *see also* Criminal Jury Instructions for the District of Columbia (“Redbook”), No. 2.106 (5th ed. 2021) (jury “must not consider the indictment as evidence of any kind”).

The Indictment in this case is a “speaking indictment.” Its first seven pages make a variety of allegations, each of which would need to be proved by competent evidence introduced at trial

in order to be considered by the jury. Mr. Bannon therefore requests that the entirety of the Indictment not be read to the jury during trial or given to the jury during its deliberations. We have no objection, however, to the language of Count One and Count Two being read to and presented to the jury. [Doc. 1 at ¶¶ 22 – 25].

WHEREFORE, Mr. Bannon, by and through his undersigned counsel, respectfully asks the Court to grant the instant Motion.

Dated: June 17, 2022

Respectfully submitted,

**SILVERMAN|THOMPSON|SLUTKIN|WHITE, LLC**

/s/ M. Evan Corcoran

M. Evan Corcoran (D.C. Bar No. 440027)

400 East Pratt Street – Suite 900

Baltimore, MD 21202

Telephone: (410) 385-2225

Facsimile: (410) 547-2432

Email: [ecorcoran@silvermanthompson.com](mailto:ecorcoran@silvermanthompson.com)

/s/ David I. Schoen

David I. Schoen (D.C. Bar No. 391408)

David I. Schoen, Attorney at Law

2800 Zelda Road, Suite 100-6

Montgomery, Alabama 36106

Telephone: (334) 395-6611

Facsimile: (917) 591-7586

Email: [schoenlawfirm@gmail.com](mailto:schoenlawfirm@gmail.com)

/s/ Robert J. Costello

Robert J. Costello (*pro hac vice*)

Davidoff Hutcher & Citron LLP

605 Third Avenue

New York, New York 10158

Telephone: (212) 557-7200

Facsimile: (212) 286-1884

Email: [rjc@dhclegal.com](mailto:rjc@dhclegal.com)

*Counsel for Defendant Stephen K. Bannon*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17th day of June 2022, a copy of the foregoing Motion In Limine On Presenting Indictment To The Jury was served *via* the Court's CM/ECF system on registered parties and counsel.

/s/ M. Evan Corcoran  
M. Evan Corcoran (D.C. Bar No. 440027)