

1 BILAL A. ESSAYLI
 Acting United States Attorney
 2 JOSEPH T. MCNALLY
 Assistant United States Attorney
 3 Acting Chief, Criminal Division
 PATRICK D. KIBBE (Cal. Bar No. Pending)
 4 CHRISTOPHER R. JONES (Cal. Bar. No. 343374)
 Assistant United States Attorneys
 5 General Crimes Section
 1200 United States Courthouse
 6 312 North Spring Street
 Los Angeles, California 90012
 7 Telephone: (213) 894-6482 / (213) 894-7383
 Facsimile: (213) 894-0141
 8 Email: patrick.kibbe@usdoj.gov
 christopher.jones4@usdoj.gov

9 Attorneys for Plaintiff
 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ALEXANDRIA DEMETRIUS
 17 AUGUSTINE,

18 Defendant.

No. 2:25-cr-678-KLS

GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION FOR JURY TRIAL
ON ALL COUNTS (Dkt. 34)

Trial Date: October 7, 2025

Trial Time: 9:00 a.m.

Location: Courtroom of the
 Honorable Karen L.
 Stevenson

19
 20
 21 Plaintiff United States of America, by and through its counsel
 22 of record, the Acting United States Attorney for the Central District
 23 of California and Assistant United States Attorneys Patrick D. Kibbe
 24 and Christopher R. Jones, hereby files its opposition to defendant's
 25 motion for a jury trial on all counts.

26 This opposition is based upon the attached memorandum of points
 27 and authorities, the files and records in this case, and such further
 28 evidence and argument as the Court may permit.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant Alexandria Demetrius Augustine ("defendant") is
4 charged by information with misdemeanor assault on a federal officer,
5 in violation of 18 U.S.C. § 111(a)(1) (Count One), and two petty
6 offenses, Causing a Disturbance by Impeding or Disrupting the
7 Performance of Official Duties by Government Employees, in violation
8 of 40 U.S.C. § 1315(c) and 41 C.F.R. § 102-74.390(c) (Count Two), and
9 Failing to Comply with Official Signs and Directions, in violation of
10 40 U.S.C. § 1315(c) and 41 C.F.R. § 102-74.385 (Count Three). The
11 Supreme Court has explained, there is no right to a jury trial for
12 petty offenses. Lewis v. United States, 518 U.S. 322, 323 (1996).
13 The Federal Rules of Criminal Procedure codify the same. Fed. R.
14 Crim P. 58(b)(2)(F). This Court regularly conducts bench trials for
15 CVB violations. The Government respectfully submits that the Court
16 should not deviate from this usual practice in this case, and that
17 the jury should decide the misdemeanor assault charge, and the Court
18 should decide the petty offenses.

19 **II. ARGUMENT**

20 **A. The Court Should Follow its Regular Practice**

21 As the Court recognized, the Court regularly hold trials on CVB
22 violations. The Government respectfully proposes that the Court
23 should follow that regular practice here. This practice is aligned
24 with both Supreme Court precedent and the Federal Rules of Criminal
25 Procedure.

26 In Lewis v. United States, 518 U.S. 322, 323 (1996), the Supreme
27 Court held that there was no jury trial right for multiple petty
28 offenses. Likewise, Federal Rule of Criminal Procedure 58(b)(2)(F)

1 explains that that the defendant has "the right to a jury trial
2 before either a magistrate or district judge - unless the charge is a
3 petty offense." Here, Counts Two and Three are petty offenses. See
4 18 U.S.C. § 19 ("the term 'petty offense' means a Class B
5 misdemeanor, a Class C misdemeanor, or an infraction"); 18 U.S.C. §
6 3559(a)(8) (classifying offense with term of imprisonment of more
7 than 5 but less 30 days as a Class C misdemeanor).

8 While Lewis and the Rules of Criminal Procedure do not foreclose
9 a Court from exercising its discretion to grant a jury trial for
10 petty offenses, the Court's regular practice of the Court deciding
11 petty offenses is consistent with this authority. As explained
12 further below, the Government respectfully submits that there is no
13 reason to deviate in this case.

14 **B. This Is Not an Exceptional Case**

15 In United States v. Cruscial, No. 3:18-CR-00465-JR, 2019 WL
16 1087150, at *6-7 (D. Or. Mar. 7, 2019), the district court denied
17 defendant's motion for a jury trial for Class C misdemeanors charged
18 via information. In doing so, the district court explained that "the
19 cases cited by defendants indicate that a jury trial for a petty
20 offense may be appropriate under highly unusual or unique
21 circumstances." United States v. Cruscial, 2019 WL 1087150, at *6
22 (citing United States v. Greenpeace, Inc., 314 F.Supp.2d 1252 (S.D.
23 Fla. 2004); and United States v. Rodriguez, 2010 WL 11531202 (D.
24 Idaho Oct. 15, 2010)). The district court explained, "'[V]irtually
25 all Class B misdemeanors need not be tried by a jury' - only when the
26 specific facts indicate that the case presents something other than a
27 'run-of-the-mill petty offense' is 'deviation from this general rule
28 ... well-suited.'" Id. (quoting Rodriguez, 2010 WL 11531202 at *1).

1 In Cruscial, defendants argued that their case presented a
2 “matter of public interest.” Id. Similarly, Defendant argues that
3 “This case - like many of the protest cases - has drawn substantial
4 public attention, and should be tried in open court to a jury of Ms.
5 Augustine’s peers.” Def. Mtn. at 6. The district court in Cruscial
6 denied the motion on that basis, explaining, “Aside from the fact
7 that none of the precedent cited by defendants support such a
8 proposition, permitting a jury trial for a petty offense
9 predominately based on the likelihood of local media attention is
10 neither practicable nor consistent with notions of fundamental
11 fairness.” United States v. Cruscial, 2019 WL 1087150, at *6. The
12 Court summarized:

13 Simply put, this case does not present
14 circumstances sufficient to justify a discretionary
15 jury trial for a petty offense. Significantly, it
16 concerns Class C misdemeanors, pursued through an
17 Information⁶ (as opposed to an indictment), that are
18 fairly standard. There are no novel questions posed
19 nor untested or stale legal theories. Indeed, as both
20 parties surely recognize, federal misdemeanor
21 citations issued to protestors are common. There is
22 also no significant risk of jail time and the amount
23 of potential restitution sought does not convert these
24 charges into more serious offenses. . . . In sum,
25 defendants have not shown that the facts of this case
26 warrant divergence from the general rule providing for
27 bench trials of petty offenses”

28 Id. at *7. The same reasons apply fully to this case.

Similarly, in United States v. Stansell, 847 F.2d 609, 611 (9th
Cir. 1988), the Ninth Circuit rejected the defendant’s argument that
there was a right to a jury trial for petty offenses, when the First
Amendment is implicated. The Ninth Circuit explained, “Trials
involving other regulations of conduct on federal property under

1 subpart 101-20.3 likewise have been routinely conducted without a
2 jury.”) Id. at n.3 (collecting cases). See also United States v.
3 Mumford, No. 3:17-CR-0008-JCC, 2017 WL 652449, at *2 (D. Or. Feb. 16,
4 2017) (court “declin[ing] to exercise its discretion to order a jury
5 trial” in relation to charges brought under 41 C.F.R. § 102-74.390
6 and 41 C.F.R. § 102-74.385, in a case that had garnered significant
7 media attention).

8
9 Defendant’s authority is not to the contrary. Defendant claims
10 that in United States v. Boyd, 214 F.3d 1052 (9th Cir. 2000), the
11 Ninth Circuit “sanctioned” a jury trial on a misdemeanor assault
12 charge under 18 U.S.C. § 111(a)(1) and a class B misdemeanor for
13 entering federal property (Def Mtn. at 2), but the issue of a jury
14 trial was not before Ninth Circuit and it did not address that
15 question at all.

16 Defendant also cites extensively from a Government brief in the
17 Eastern District of California. Def. Mtn. at 2-3. But in that case
18 the Government was opposing Defendant’s motion to sever the trials,
19 in which there would potentially be two separate proceedings.
20 Accordingly, the Government pointed out, inter alia, that would not
21 be efficient for the Court or witnesses. Here, as explained in its
22 Trial Memorandum and further explained below, the Government proposes
23 only one proceeding to efficiently present the evidence to the jury
24 and Court. Thus, the Government submits that there are no
25 exceptional reasons for the CVB counts to be decided by the jury.

1 **C. The Government's Proposal Would Not Violate the Rules of**
2 **Evidence**

3 As included in its Trial Memorandum, the Government submits that
4 the only evidence to support the charges in Counts Two and Three that
5 would not otherwise be presented to the jury in relation to their
6 deliberation on Count One, are photo exhibits and testimony to show
7 that GSA regulations were conspicuously posted in the area of the
8 Roybal Federal Building "apron" where the incident took place to
9 satisfy the "posting" elements of Counts Two and Three, which is
10 discussed further below. If necessary, the Government may also seek
11 to admit testimony that Defendant was advised on previous dates not
12 to be on federal property at Roybal, because actual notice is an
13 alternate way that posting element can be satisfied for Counts Two
14 and Three. The Government proposes that this evidence and testimony
15 could be taken outside of the presence of the jury and will not take
16 long to present.

17 Defense argues that the Government's proposal would violate the
18 rules of evidence by presenting irrelevant testimony to the jury. To
19 the extent the Government's proposal was unclear to defense at the
20 time defense filed their motion, the Government's proposal
21 specifically avoids that problem.

22 Moreover, evidence that GSA regulations were posted outside of
23 the Roybal apron and that Defendant received notice to stay off
24 federal property on other days would not be unduly prejudicial.
25 Indeed, such evidence is intrinsic to the facts and circumstances of
26 the charged conduct. However, out of an abundance of caution, the
27 Government does not object to presenting this limited evidence to the
28 Court only outside the presence of the jury.

1 **D. The Court Should Disregard Defendant's Attacks on the**
2 **Government**

3 What is left of Defendant's request is simply an attack on the
4 government. See Def. Mtn. at 5. Defendant speculates the government
5 was unable to secure an indictment in this case and the government is
6 seeking a to insulate itself from a jury. Id. at 5-6. However, when
7 Government counsel gave Defense counsel advanced notice of the
8 superseding information, Defense counsel accused the Government of
9 attempting to *prejudice* the jury and did not want the charges in
10 front of the jury. The Government respectfully submits that the
11 Court should disregard these attacks and instead focus on the facts
12 and law of this case. The Government has charged the counts it
13 believes are appropriate in relation to Defendant's conduct. The
14 Government asks simply for the Court to decide the CVB counts as it
15 typically does, and for the jury to decide the misdemeanor assault
16 charge, as is Defendant's right.

17 **III. CONCLUSION**

18 For the foregoing reasons, the government respectfully requests
19 that this Court deny defendant's motion.
20
21
22
23
24
25
26
27
28