

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

BRADY KNOWLTON,

Defendant

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Case No. 21-CR-00046-RDM

DEFENDANT'S MOTION TO DISMISS
COUNT TEN OF THE INDICTMENT

TO THE HONORABLE RANDOLPH D. MOSS, UNITED STATES DISTRICT
JUDGE FOR THE DISTRICT OF COLUMBIA:

COMES NOW BRADY KNOWLTON, the Defendant in the above styled and numbered cause, by and through undersigned counsel, and, pursuant to Rules 7(c)(1) and 12(b)(3)(B) of the Federal Rules of Criminal Procedure, the Fifth and Sixth Amendments to the United States Constitution, and the authority discussed in his memorandum to this motion, moves this Court to enter an order dismissing Count Ten of the indictment in this case. In support thereof, he would show the following.

1. Count Ten of the indictment against Mr. Knowlton alleges that on or about January 6, 2021, he “attempted to, and did, corruptly obstruct, influence, and impede an official proceeding, that is, a proceeding before Congress, by entering and remaining in the United States Capitol without authority and committing an act of civil disorder and engaging in disorderly and disruptive conduct” in violation of 18 U.S.C. §§ 1512(c)(2) and 2.
2. Count Ten must be dismissed as this allegation fails to state an offense, fails to

provide Mr. Knowlton with adequate notice of what he is charged with, and does not ensure that a grand jury has found sufficient evidence of the necessary elements of the offense in violation of Rule 7(c)(1) of the Federal Rules of Criminal Procedure, and the Fifth and Sixth Amendments to the United States Constitution. More specifically, the indictment fails to state what “official proceeding” and, even more specifically, what “proceeding before Congress” Mr. Grider allegedly obstructed. This is a critical issue in this case because 18 U.S.C. § 1512(c) only prohibits obstruction of an “official proceeding” related to the *administration of justice* before a tribunal and not any and all governmental functions such as legislative action by Congress. *See United States v. Ermoian*, 752 F.3d 1165, 1172 (9th Cir. 2013).

WHEREFORE, PREMISES CONSIDERED, Mr. Knowlton respectfully requests this Honorable Court dismiss Count Ten of the indictment against him and permit him leave to amend and supplement this motion at a later date, if needed.

Date: June 18, 2021

Respectfully Submitted,

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ATTORNEYS FOR THE DEFENDANT,
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion was sent to Counsel for the Government, Elizabeth Kelley, on June 18, 2021, via CM/ECF and email.

/s/ T. Brent Mayr

T. BRENT MAYR