

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA :
 :
 v. : **Case No. 1:21-cr-036 (CJN)**
 :
 GINA MICHELLE BISIGNANO, :
 :
 Defendant. :

MOTION TO DISMISS COUNT ONE

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this motion to dismiss Count One of the Indictment, charging Obstruction of an Official Proceeding in violation of 18 U.S.C. § 1512(c)(2). In support of this motion, the government states the following:

1. The defendant was charged in this case by a seven-count indictment, charging several violent felonies and misdemeanors, including 18 U.S.C. § 231 (Obstructing Officers During a Civil Disorder); 18 U.S.C. §§ 1361, 2 (Destruction of Government Property); 18 U.S.C. § 1752(a)(1) (Entering and Remaining in a Restricted Building or Grounds); 18 U.S.C. § 1752(a)(2)(Disorderly and Disruptive Conduct in a Restricted Building or Grounds); 18 U.S.C. § 1752(a)(4) (Engaging in Physical Violence in a Restricted Building or Grounds); and 40 U.S.C. § 5104(e)(2)(D) (Disorderly Conduct in a Capitol Building). She is also charged with Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2).
2. The defendant has already plead guilty in this case to, and stands convicted of, five of those charges: Counts Two, Four, Five, Six and Seven. Count One and Count Three remain set for trial.

3. On June 28, 2024, the Supreme Court of the United States decided *Fischer v. United States*, 603 U.S. ___, 2024 WL 3208034 (June 28, 2024), vacating the D.C. Circuit’s judgment and finding that “[t]o prove a violation of Section 1512(c)(2), the Government must establish that the defendant impaired the availability or integrity for use in an official proceeding of records, documents, objects, or as we earlier explained, other things used in the proceeding, or attempted to do so.” *Fischer*, at *20. The Court remanded *Fischer* to the D.C. Circuit for further proceedings and to assess the sufficiency of the indictment on that count. Based on the Supreme Court’s opinion and the forthcoming proceedings in the D.C. Circuit, the government anticipates that it will need additional time to evaluate its prosecution of charges under 18 U.S.C. § 1512(c)(2).
4. Trial on Count One and Count Three is scheduled for August 5, 2024. This trial date has been set since February 1, 2024, after being continued from April 8, 2024 to, *inter alia*, await the opinion in *Fischer*. The parties have filed pretrial motions and motions in *limine*, and the Court is scheduled to hold the final pretrial conference next Friday, July 26, 2024.

Given the specific facts of this case, the other relevant charges, and the quickly-approaching trial date, to promote judicial economy and efficiency, the United States requests that Count One be dismissed without prejudice in the interests of justice. Thereafter, the parties can either proceed to trial on the remaining count, Count Three, on August 5, 2024, or reach a resolution short of trial.

Dated: July 16, 2024

Respectfully Submitted,

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