

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

**UNITED STATES OF AMERICA** :  
 :  
 v. : **Case No. 21-cr-128 (RC)**  
 :  
**WILLIAM POPE,** :  
 :  
 **Defendant.** :

**MOTION TO DISMISS COUNT TWO**

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

1. The defendant was charged in this case by a eight-count indictment, charging several felonies and misdemeanors, including violations of 18 U.S.C. § 231; 18 U.S.C. § 1752, and 40 U.S.C. § 5104(e)(2). He is also charged with obstruction of an official proceeding and aiding and abetting, in violation of 18 U.S.C. §§ 1512(c)(2) and 2.
2. On May 13, 2024, the government moved to dismiss Counts Five and Seven, charging the defendant with violations of 18 U.S.C. § 1752(a)(3) and 40 U.S.C. § 5104(e)(2)(E). ECF No. 273. The Court granted that motion on June 18, 2024. ECF No. 326 at 29 n.5, 47.
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 . . . 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 Counts One, Three, Four, Six, and Eight is scheduled for December 2, 2024 and this Court set an August 23, 2024 deadline for the government to determine whether it wished to proceed to trial on Count Two, in light of *Fischer*.

Given the specific facts of this case, the other relevant charges, and the December 2024 trial date, and to promote judicial economy and efficiency, the United States requests that Count Two be dismissed without prejudice in the interests of justice.

Dated: August 23, 2024

Respectfully Submitted,

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United States Attorney

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