

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ERIC SWALWELL,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-cv-1678 (APM)
)	
DONALD J. TRUMP et al.,)	
)	
Defendants.)	

ORDER

For the reasons set forth in the court’s Memorandum Opinion and Order of February 18, 2022, ECF No. 56 [hereinafter Mem. Op.], the court grants Defendant Mo Brooks’s Motion to Dismiss, ECF No. 57, which Brooks filed at the court’s invitation. Specifically, as the court concluded with respect to Defendants Giuliani and Trump Jr., Brooks’s alleged speech that forms the basis for the claims against him is protected expression under the First Amendment. None of Brooks’s speech, including his remarks delivered at the January 6 Rally, satisfies the *Brandenburg* exception. The allegations against Brooks do not support a plausible inference that “he was advocating . . . any action” or that “his words were intended to produce, and likely to produce, imminent disorder.” *Hess v. Indiana*, 414 U.S. 105, 107 (1973) (citation omitted). Additionally, the court dismisses the section 1985(1) and 1986 claims against Brooks for failure to state a claim, for the same reasons the court did so against Defendants Giuliani and Trump Jr. *See* Mem. Op. at 76–78, 79–80.

Accordingly, all claims against Mo Brooks are dismissed. Defendant Brooks's Petition to Certify Defendant Mo Brooks Was Acting Within the Scope of His Office or Employment, ECF No. 20, is denied as moot.

Dated: March 9, 2022

A handwritten signature in black ink that reads "Amit Mehta". The signature is written in a cursive style with a horizontal line underneath the name.

Amit P. Mehta
United States District Court Judge