

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

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UNITED STATES OF AMERICA,  
Plaintiff,

Criminal Case No. 21-cr-00195

vs.

SALVADOR SANDOVAL, JR.,  
Defendant.

**MOTION TO TRANSFER VENUE TO  
SOUTHERN DISTRICT OF IOWA**

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**MOTION TO TRANSFER VENUE AND  
MEMPORANDUM OF LAW**

**COMES NOW**, Salvador Sandoval, through his counsel, William L. Kutmus and Trever T. Hook, and moves pursuant to *Fed.R.Crim.P.* 21(a), and the Fifth and Sixth Amendments to the United States Constitution, and respectfully moves for a change of venue to the Southern District of Iowa.

Aubrey Webb, an attorney for Gabriel Garcia, a January 6, 2021 defendant in Criminal Number 1:21-CR-129, retained John Zogby, a jury consultant, to conduct an online survey of Washington D.C. registered voters regarding their opinions concerning the January 6, 2021 events at the Capitol Building. Survey results attached. The undersigned were given authorization by Aubrey Webb to utilize the results of the Zogby Survey, for the purpose of the undersigned's motion to change venue. The undersigned were also given authorization to make use of the content in his motion and Memorandum of law verbatim.

Venue survey<sup>1</sup> data obtained during the month of January 2022 reveals in part:

- A. 73% of respondents believed that anyone who merely entered the Capitol building on J6<sup>2</sup> is guilty of insurrection;
  
- B. A majority (64%) of respondents believe that anyone who entered the Capitol building on J6 is responsible for others protestors' violence and destruction of property;

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<sup>1</sup> Survey participants are registered D.C. voters, and thus representative of the potential venire, and will be referred to as respondents

<sup>2</sup> The terms J6 and January 6 will be used interchangeably throughout this pleading

C. 70% of respondents believe that ANYONE who went inside the Capitol building on January 6 was trying to stop the certification of the electoral vote for president.

The survey revealed that 95% of the respondents stated that they were familiar with the January 6, 2021 events at the capitol; 67% of those same respondents stated that they were very familiar with the events at the Capitol.

On December 17, 2021, a Superseding Indictment was filed against Salvador Sandoval. He was charged with **Count I** - Civil Disorder, in violation of Title 18, United States Code, Section 231(a)(3); **Count II** - Assaulting, Resisting, or Impeding Certain Officers, in violation of Title 18, United States Code, Section 111(a)(1); **Count III** - (Assaulting, Resisting, or Impeding Certain Officers, in violation of Title 18, United States Code, Section 111(a)(1); **Count IV** - Assaulting, Resisting, or Impeding Certain Officers, in violation of Title 18, United States Code, Section 111(a)(1); **Count V** - Assaulting, Resisting, or Impeding Certain Officers, in violation of Title 18, United States Code, Section 111(a)(1); **Count VI** - Obstruction of an Official Proceeding and Aiding and Abetting, in violation of Title 18, United States Code, Sections 1512(c)(2); **Count VII** - Entering and Remaining in a Restricted Building or Grounds, in violation of Title 18, United States Code, Section 1752(a)(1); **Count VIII** - Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of Title 18, United States Code, Section 1752(a)(2); **Count IX** - Engaging in Physical Violence in a Restricted Building or Grounds, in violation of Title 18, United States Code, Section 1752(a)(4); **Count X** - Disorderly Conduct in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(D); **Count XI** - Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G); **Count XII** - Act of Physical Violence in the Capitol Grounds or Buildings, in violation of Title 40, United States Code, Section 5104(e)(2)(F).

Attorney General Merrick Garland has compared the January 6 events to horrific events in American history, particularly with *United States v. McVeigh*, 918 F.Supp. 1467, 1470 (W.D. Okla. 1996). In *McVeigh*, Garland conceded and consented that the Eastern District of Oklahoma, because of the pre-trial publicity, could not guarantee McVeigh a fair trial and agreed to a transfer of venue.

A transfer of venue, likewise, should occur here.

Approximately 93% of Washington, D.C. voters voted against Donald Trump in the last elections. Moreover, the Zogby Survey reveals that 73% of respondents opined that any individual who occupied the U.S. Capitol on January 6, should be convicted of insurrection. Additionally, 66% of the respondents of the Zogby Survey stated that the January 6 events posed a threat to the democracy of the United States.

The overall finding of the Zogby Survey indicates Washington, D.C. appears to be a hostile venue for a fair trial to those alleged involvements in the events at the Capitol on January 6, 2021:

- Q6. Greater than 9 in 10 respondents (95%) said they have overall familiarity (very and somewhat combined) with the January 6, 2021 events at the Capitol; and more than two-thirds (67%) of whom stated they are very familiar with these events.
- Q7. A majority (54%) of the sample responded that national media sources were more responsible in shaping views about the events in question. Just under 4 out of 10 respondents (39%) said local news sources were more instrumental.
- Q8. Just under 2 in 3 respondents (66%) agreed that the January 6, 2021 events posed a dire threat to our nation and democracy; this same opinion held by both age groups above 50 years old (50 – 64 and 65+ years of age) rose above three-fourths of respondents (75.1% and 78%, respectively).
- Q9. Nearly 3 out of 4 respondents (73%) believe that any individual who was inside the Capitol on January 6, 2021 should be convicted of insurrection.
- Q15. Seven out of 10 (70%) respondents believe that anyone who went inside the Capitol building that day were trying to stop the certification of the Electoral College vote for president. And almost two-thirds (64%) of respondents believe that despite not personally committing acts of vandalism or violence, an individual could still be held responsible for such serious crimes assuming they went inside the building that day (Q16).

**CONCLUSION**

Based upon the results of the Zogby Survey, Defendant Sandoval would be confronted with undue prejudice in the District of Columbia, which would prevent him from being tried before an impartial jury guaranteed by the Fifth and Sixth Amendments of the United States Constitution. A change of venue to the Southern District of Iowa would more likely provide objective jurors than those in Washington, D.C.

WHEREFORE, Salvador Sandoval requests this Honorable Court grant his motion for severance.

**RESPECTFULLY SUBMITTED:**

**KUTMUS, PENNINGTON & HOOK, PC**

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**ATTORNEYS FOR DEFENDANT  
SALVADOR SANDOVAL, JR.**

**CERTIFICATE OF SERVICE**

I hereby declare that on February 7, 2022, I electronically filed the foregoing with the Clerk of Court using the ECF system which will send notification of such filing to the following:

Mr. Louis Manzo  
Department of Justice  
1400 New York Avenue NW  
Washington, DC 20002

/s/ Jodi A. Nissen